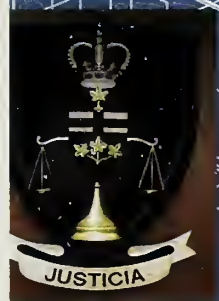


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OCTOBER, 2006

COURTHOUSE PLANNING STUDY

Presented to
Ministry of the
Attorney General

Presented by
PSTG,
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Principal Researcher

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Dr. Elaine Todres

EXECUTIVE SUMMARY

Courthouses have traditionally represented a physical embodiment of the rule of law in our democratic society. In the past decade, successive provincial governments have spent more than \$300 million dollars to build or refurbish courthouses in Ontario. In the summer of 2005, the Government of Ontario announced an additional \$385 million for court construction and renewal over the next five years. Given this significant investment of public funds in courthouse construction and renewal, the Ministry of the Attorney General launched a review of capital planning processes to ensure that consistent and effective courthouse planning processes are in place across the province and that court facilities are designed in ways that meet current and future program needs and provide open, accessible and timely justice services for the people of Ontario. The report includes a comparative evaluation of three consolidated courthouses in Brampton, Hamilton, and Ottawa, and an analysis of provincial capital planning processes.

PROJECT STEERAGE

A Steering Committee consisting of senior judiciary and Ministry executives was assembled to provide advice and direction to the project team. This committee met four times between April 2005 and March 2006.

PROJECT APPROACH

The study relied on three primary sources of information:

1. Consultations with participants from the Brampton, Hamilton and Ottawa consolidated courthouses and with corporate representatives from the justice sector and government.
2. A review of existing capital planning and courthouse design studies and reports.
3. An architectural assessment of the Brampton, Hamilton and Ottawa consolidated courthouses, completed by Perkins Eastman Black Architects (PEB).¹

AN HISTORICAL OVERVIEW

The provincial government assumed full responsibility for the construction and upkeep of all courthouses in Ontario in 1968. Some new construction was undertaken in the 1960s and 1970s but most of the courthouse work was devoted to the upgrading of existing buildings. Within the last decade however, several new consolidated courthouses have been built. Many would argue that the changing approaches to the architecture of courthouses — they are increasingly functional in look and style — reflect the changing role of the courthouse in the community.

¹ *Facility Planning Studies – Brampton, Hamilton and Ottawa, Final Report*. Perkins Eastman Black, ORC Project No. P20028, January 30, 2006.

AN HISTORICAL OVERVIEW *cont.*

While the fundamental role of courts in Ontario has remained constant, the environment within which justice is delivered has changed to reflect shifts in society's economic and political priorities. Following Confederation, courts were concerned primarily with property disputes and criminal matters. As the federation developed and its social and business life became more complex, there arose a successive set of legal, regulatory and policy changes that had a direct impact on the functionality of the courthouse. While the traditional core functions of a courthouse – courtrooms, judicial offices, space for administration offices — are easily identified, the requirements to accommodate an increasing number and variety of new programs – whether mandated by law or reflecting the government of the day's policy agenda – have created a crisis in many aging courthouses that were designed originally for smaller case loads and a more limited range of court services.

Recent policy and programmatic initiatives have placed considerable pressures on both new and aging courthouses. As an example, federal legislation requiring the separate housing of young offenders from adult offenders, while laudable, places unanticipated pressure on existing courthouse holding cells. The introduction of a Victim/Witness Assistance Program, requiring dedicated courthouse space, also while laudable, brings with it spatial pressures in fixed quarters.

COMPARATIVE ANALYSIS OF BRAMPTON, HAMILTON AND OTTAWA COURTHOUSES

A comparative analysis of the three consolidated courthouses studied yields the following findings:

- Many variables, including facilities and the planning thereof, affect the functionality of these courthouses.
- Issues become crystallized when there is an apparent, significant space shortage.
- Courthouses located in regions characterized by high population growth experience challenges unlike other courthouses.
- Planning makes a difference.

- A number of issues have been identified regarding counter/information services, court scheduling, courtroom support and court document management, and should be taken into consideration in future planning exercises.
- Policy should drive program and spatial design.
- The concept of consolidation works.
- The space pressures outside the courtroom are as significant as the pressures on courtrooms.
- Organizational culture has an impact on the functionality of a courthouse.
- The judiciary is responsible for courtrooms; there is no clear accountability for courthouses.
- Processes need to be transparent.
- Functional issues, like parking, security, information for the public and access to vertical circulation, need to be addressed through policy and design.

KEY THEMES

Consultations with participants revealed six recurring themes:

- There is a need for a policy framework that would address the following:
 - Principles based on highest and best use
 - Desired occupancy
 - Core functions
 - Consolidation strategy
- A consistent and principle-based approach to occupancy is required.
- Capital-planning processes are lengthy and opaque and must be modified to ensure accountability, clarity of roles, and an appropriate balance between centralized policy requirements and local input.
- Prisoner management remains an issue, particularly in regions relying on transportation from 'Super Jails'.
- The functionality of courthouses requires a number of critical design features.
- Organizational culture is a significant variable affecting the overall functioning of a courthouse, irrespective of design.

CAPITAL PLANNING PROCESSES

There are eight phases associated with the capital planning processes for courthouse renewal and new courthouse construction:

- Identification of potential courthouse projects
- Business case preparation
- Assessment and priority-setting of facility and business issues
- Development of MAG Infrastructure Plan
- Review and approval of MAG Infrastructure Plan
- Determination of funding source and management
- Functional design
- Implementation

Most participants interviewed in this study could not describe the capital planning processes. They perceive a lack of transparency in the processes and highlighted specific concerns connected with the need for role clarification, training, and reconsideration of the scope of local Users' Committees.

BEST PRACTICES

Planning approaches in Ontario roughly conform to the best practices set out by the National Center for State Courts in the United States. However, there are a number of issues that need to be examined by MAG:

- Insufficient energy is placed on the pre-design phase.
- No overarching vision regarding courthouses exists.
- There are no principles regarding occupancy. The result is that a sense of space entitlement for each user group has evolved.
- Financial information is not fully disclosed at the beginning of the planning process.
- No formalized "Existing Facility Evaluation" takes place.
- Projection models for future growth appear to be inadequate in light of best practices.
- There are no long-term plans for each site and hence no master plan for implementation.
- Changes to legal and judicial trends need to be incorporated in a more systematic way.

- More attention needs to be paid to sharing courtrooms between the Superior Court and Ontario Court benches in a consolidated courthouse.
- Business process re-engineering ought to be a central output of the planning processes.
- The Province is not a leader in the use of technology in courthouses or courtrooms.

The best practices describe activities at the macroscopic level. The issues cited by the participants in the study call for more specificity in best practices regarding:

- a) Structures for engaging users
- b) Leadership and accountability during the planning process
- c) Most appropriate models of consolidation versus purpose-specific courts.

FINDINGS

The courthouse as a system

All participants in this study are aware that a courthouse is in fact a system composed of an independent judiciary and many partners. The customer in the planning process, MAG, is placed in a situation where it is given responsibility but not authority to speak for all participants requiring space.

The system is ready for a change

All participants expressed concerns about current capital planning processes and a concomitant desire to support changes that would lead to better program design and, ultimately, better approaches to new construction. There is consensus that there are serious absences of policy that hinder the development of official approaches to the design, construction, and refurbishing of courthouses.



Facilities are an important but not the determinative factor in courthouse functionality

Best practice dictates a rigorous approach to planning. Yet, planning and adjacencies alone cannot account in total for well-functioning courthouses. Other factors such as technology, leadership, processes, resources, demographics, policies and programs and organizational culture all have a role to play.

Current planning model is inadequate

Given the earlier findings that a policy framework needs to be established to drive planning, participants believe that planning processes must be streamlined, with clear accountabilities and roles laid out. Consideration must be given to the latest trends in adjudication and alternative dispute resolution and the application of technology and innovation with respect to the treatment of the unrepresented litigant. New methodologies need to be developed to predict future program and courtroom pressures.

No clear vision or policy framework guiding the planning of courthouses

When new courthouses are planned, planning exercises associated with them are often described as unique or

“one-off.” The absence of a consistent and well-communicated framework results in ambiguous processes with clouded accountabilities and, more important, different features across new courthouses.

Limited role for judicial input

Practices vary across the province with regard to judicial input into new construction and renewal projects. In most but not all regions, judges provide significant input into regional priority-setting. There are no clear mechanisms in place to receive input from the two Ontario benches on major matters like site selection, province-wide renewal priorities and key policy parameters for courthouse design.

Lack of readily-available research

While the National Center for State Courts has a large repository of best practice, it is not easy to find relevant reviews of inter-jurisdictional approaches to consolidation and courthouse design. Other gaps include analysis of key trends in adjudication, key performance indicators, and methodology for modelling growth needs.

RECOMMENDATIONS

This report has examined capital planning for courthouses through a systematic review consultation with the judiciary and provincial as well as local stakeholders has yielded seven major findings. The recommendations which flow from these findings will now be categorized

Structure: Recommendations 1-6

This set of recommendations focuses on the development of formalized structures for input, advice and/or decision-making related to capital planning for courthouses.

Foundational Work: Recommendations 7-11

This set of recommendations addresses the need for the development of additional foundational policy development to guide capital planning for courthouses.

Process: Recommendations 12-13

These recommendations deal with suggested improvements to current courthouse planning processes.

Enablers: Recommendations 14-15

These two recommendations deal with enabling strategies to enhance outcomes from the courthouse capital planning processes.

1. CREATE NEW MINISTRY MECHANISMS TO GUIDE ACCOMMODATIONS PLANNING FOR THE MAG

It is recommended that the Ministry of the Attorney General establish four new planning and oversight mechanisms to guide accommodations planning at the Ministry.

One of the most consistent themes echoing throughout the consultation process was the need to change current mechanisms and processes within the Ministry of the Attorney General pertaining to courthouse capital planning. Any changes to planning need to be focused within clear and accountable structures for advice and decision-making.

The creation of four new planning mechanisms would serve to:

- Demonstrate leadership
- Ensure appropriate and timely input from the judiciary
- Clarify roles, relationships and accountabilities at both central and local tables
- Provide an access point for issue clarification when contentious matters arise

2. ESTABLISH THE PERMANENT JOINT WORKING GROUP ON COURTHOUSES

It is recommended that the Attorney General establish a Permanent Joint Working Group (PJWG) on courthouses with a clear Terms of Reference and a focus on the development of a policy framework to guide courthouse construction and renewal.

One of the major findings in the study is the limited judicial input, particularly at the level of the Executive of the respective benches, into the “front end” of capital planning for courthouses. Much activity is directed at the local level.

The establishment of a Permanent Joint Working Group on courthouses would:

- Recognize the unique role of the judiciary
- Provide a vehicle for the Chief Justices of both benches to provide direct executive-level input regarding courthouse planning issues
- Provide a forum for senior MAG officials to identify key policy gaps and work on respective policy development
- The Policy Framework would include:
 - Guiding principles
 - A conceptual framework
 - Types of consolidation models
 - Trends in adjudication and dispute resolution
 - Occupancy framework
 - Criteria for site selection

3. ESTABLISH STAFF INFRASTRUCTURE FOR THE PERMANENT JOINT WORKING GROUP

It is recommended that the Ministry of the Attorney General, on the advice of the judiciary, allocate appropriate resources to underpin the creation of a small secretariat program to help the bench and MAG meet the mandate of the Permanent Joint Working Group.

The offices of the Chief Justices of both the Ontario Court of Justice and the Superior Court of Justice are very lean in terms of specialized support and dedicated expertise on courthouse construction and renewal.

In order for both the judiciary and MAG to work effectively together, infrastructure must be put into place. The staff unit would work closely with the leadership of the JPWG to establish timetables and a plan of action, and provide the background support necessary.

4. CREATE A MAG SENIOR MANAGEMENT COMMITTEE ON ACCOMMODATIONS

It is recommended that the Deputy Attorney General create a high-level Senior Management Committee focused on accommodations in courthouses.

Currently, the burden for policy, operational and financial synthesis of accommodations falls on the Facilities Management Branch and the Chief Administrative Officer of the Ministry. The exigencies of time do not always permit sufficient dialogue between and among Divisions respecting the MAG Infrastructure Plan or the in-year policy/program submissions that might have an impact on courthouse space.

The establishment of such a permanent subcommittee of the on-going Senior Management Committee would provide a forum for:

- Ministry-wide priority setting
 - Greater appreciation of cross-Divisional interests
 - Systematic review of mid-year Cabinet or Treasury Board submissions with courthouse implications

5. CREATE AN ACCOMMODATIONS COUNCIL

It is recommended that the Ministry create a MAC (accommodations council) that would serve as a forum for exchanging information, facilitating discussion and conducting strategic planning of the Ministry's long-term and accommodation planning priorities and projects. This council could report to the Executive Committee for Senior Management Committee on Accommodations.

The current internal planning processes are not optimal in terms of encouraging cross-Divisional discussion and consideration of strategy and policy concerning accommodations matters.

The goals of an Accommodations Council, chaired by the Facilities Management Branch, with appropriate representation from all Divisions and *ex-officio* representation from the Ontario Realty Corporation and the Ministry of Public Infrastructure Renewal, would be:

- Identification of emerging issues and risks
- Development of risk-mitigation strategies
- Identification of cross-Divisional issues
- Facilitation of cross-Divisional cooperation
- Shaping the direction of strategic planning
- Supporting the Senior Management Committee
- Clarification of roles and relationships regarding the identification, implementation and resolution of accommodation issues
- Creation and execution of the research agenda
- Development of “best practices” for areas determined to be of high priority

6. ESTABLISH PERMANENT USERS' COMMITTEES IN ALL COURTHOUSES

It is recommended that permanent Users' Committees focusing on facilities and accommodation issues be established in all sites and that continuous improvement in team building be made.

Some local bench/bar committees address facilities issues at their regular meetings. However, these committees are often focused on one business line (e.g. Criminal) and do not include the public and other users.

A strong argument has been made by many participants that ongoing mechanisms need to be mandated in order to ensure that a vehicle exists for the handling of difficult space-related issues. In addition, many have argued that, given the importance of organizational culture, participants need to be trained in team building in order to ensure effective participation.

A standard Terms of Reference should be created for these Users' Committees, and they should be chaired by the local court manager. The committee should meet quarterly or more frequently as required.

7. THE PERMANENT JOINT WORKING GROUP SHOULD DEVELOP A POLICY FRAMEWORK

It is recommended that the Permanent Joint Working Group develop a policy framework, which is endorsed across 5 years, to guide the decision-making processes associated with courthouse management and construction.

The central theme expressed most by the participants in this study was the need for an articulated, government-endorsed vision of a courthouse that would contain a listing of the key services required by the public, the types of combinations and permutations of the consolidated model, and the desired approach or approaches to occupancy. It was argued implicitly by many, that direction is required from the leadership cadres given that consensus is not likely to emerge from the traditional stakeholders in the justice sector. A great deal of effort has been expended in the development of Architectural Design Standards. The document contains some explicit and implicit policy considerations. It is recommended that a facilitated, principle-based consultation process be developed that would frame the architectural standards within a more clearly articulated policy framework.

8. DEVELOP FAST-TRACK POLICY FRAMEWORK TO SUPPORT CURRENT PLANNING FOR TORONTO (CRIMINAL), ST. THOMAS, QUINTE, AND WATERLOO COURTHOUSES

It is recommended that the PIWG develop a policy framework on an expedited basis to guide the functional planning for courthouses in Toronto, St. Thomas, Quinte and Waterloo.

Current planning has commenced for the construction of four courthouses in the absence of any new policy or process development. The issues cited throughout this report are less likely to be addressed for these new projects without some form of immediate policy intervention.

This interim policy framework would guide all users' groups and consultants and would serve to:

- Clarify responsibility
- Determine what key features and approaches would be determined centrally
- Make plain the narrowed mandate of local users' groups

9. ENDORSEMENT OF GUIDING PRINCIPLES

It is recommended that the Permanent Joint Working Group produce a set of guiding principles that would drive all future courthouse planning.

Discussions with the judiciary at the outset of this study centered on the need for “principle-based” decision-making on courthouse design and construction. A number of documents such as the Architectural Design Standards and the MAG Courthouse Planning Handbook (2000) do contain references to principles, yet there is no overarching set of principles of “best and highest use” that is inclusive enough to provide sufficient direction in the planning area.

10. RATIFY A SET OF CORE FUNCTIONS THAT WOULD COMPRISE AN OCCUPANCY MODEL

It is recommended that the Permanent Joint Working Group develop an approach to an occupancy model that would drive future courthouse planning.

Clearly the lack of consensus around core functions in a courthouse has led most participants on the study to observe the absence of policy, and the inadequacy of current planning processes, including the sorting out of space needs post-construction.

Just as one might imagine variations in approach to consolidation (single purpose buildings versus full consolidation), so one might imagine some variations in approaches to prospective occupancy models related to site, resourcing and local circumstances. The need for a practical orientation does not mitigate the requirements for clarity in desired approaches to occupancy. This report is rife with examples of difficulties on the ground associated with acute space shortages, the absence of an occupancy model, the lack of precision regarding accountability and the length of time associated with dispute resolution on space matters in a courthouse.

10A. APPROPRIATE LOCATIONS FOR LAW ASSOCIATION LIBRARIES

A variety of law associations in Ontario have made formal and informal presentations arguing for the continued inclusion of law libraries in any occupancy model for courthouses. The judiciary and other users and stakeholders agree that the law association library and related space is a necessary feature of a well-functioning courthouse.

In the hierarchy of tiers contained in the draft occupancy model, it is assumed that space for the public (and high volume courts) would be located on the first floor of any new courthouse. The allocation of space ought to be the subject of a space standard, and should seem intuitively appealing to consider computerized access as a constant feature of future law association libraries.

11. DEVELOP NEW APPROACHES TO MODEL FUTURE GROWTH AND EXPANSION NEEDS

It is recommended that the Ministry of the Attorney General commission a study to develop an expanded methodology for modelling demographic and programmatic growth requirements.

Many of the judges, Crown Attorneys and court managers throughout the course of consultations spoke about the need to conceptualize space needs, not only in terms of pressures on courtrooms, but pressures on non-courtroom space. They also felt strongly that current modelling is inadequate.

A strengthened methodology would examine the large number of variables affecting future growth needs. Such a study should be launched immediately and should not be linked to any particular new construction project. Its focus would be systemic and would include an analysis of new trends in adjudication, and likely future program priorities, in addition to population pressures.

12. REFINE THE CAPITAL PLANNING PROCESSES

ISSUE IDENTIFICATION AND PRIORITIZATION

12A: Long-term plans need to be developed for each courthouse site.

12 B: All business cases related to accommodations should be reviewed and assessed for a cross-Divisional perspective at the Accommodations Council.

12 C: Flexibility should be built into the priority-setting phase to allow rebalancing of priorities in light of new judicial appointments, new programs and/or emergencies.

12 D: The Accommodations Council should assess the current approach to cost absorption for “program” and “facility” issues.

DEVELOPMENT OF MAG INFRASTRUCTURE PLAN

12 E: The Permanent Joint Working Group should produce an annual set of system-wide concerns to drive capital renewal.

12 F: The Accommodations Council should provide guidance for the development of the draft MAG Infrastructure Plan.

12 G: The Permanent Joint Working Group should review and provide recommendations regarding the draft MAG infrastructure plan.

12 H: The Permanent Joint Working Group should receive formal input from major judicial stakeholders on an annual basis.

12 I: The policy framework for courthouses, when completed, should accompany the signed-off MAG infrastructure plan forwarded by the Attorney General to Cabinet.

FUNDING SOURCE AND MANAGEMENT

12J: The Attorney General should inform PJWG and the Chief Justices of Cabinet decisions pertaining to the MAG infrastructure plan.

It is recommended that the Attorney General through the Accommodations Council ensure the planning processes associated with courthouse renewal and construction.

12. REFINE THE CAPITAL PLANNING PROCESSES *cont.*

FUNCTIONAL DESIGN

12K: The PJWG should begin to consider all new construction projects with a formal knowledge transfer session led by the judiciary and court management.

12 L: A detailed Terms of Reference, approved by the PJWG, should be developed to guide user committees involved in construction projects outlining:

- Scope
 - A priori policy matters
 - Issues to be considered
- Decision-making accountabilities
 - Issues requiring resolution should be forwarded to the PJWG for discussion and/or resolution.

12 L *cont.*:

- Timeframes
- Guiding principles
 - Referred from PJWG
- Membership
 - Based on occupancy model and principles
 - Rule of “no substitutes”

12 M: All Users’ Committee participants should be trained in dispute resolution techniques and team building.

12 N: The Accommodations Council should oversee the modernization of the Province of Ontario Architectural Design Standards and work with both courts.

12. REFINE THE CAPITAL PLANNING PROCESSES *cont.*

FUNCTIONAL DESIGN *cont.*

12 O: MAG leadership should work with the Ontario Realty Corporation and Ministry of Public Infrastructure Renewal to enhance their content expertise on courthouses.

SITE SELECTION

12 P: Through the PJWG, the judiciary should be given an opportunity to provide formal input into site selection and will receive detailed briefings on the recommended approval.

IMPLEMENTATION

12 Q: Benchmarks should be developed, through the auspices of the Accommodations Council, for facilities renewal project specification and implementation to improve customer service.

12 R: Where and when the government needs to make significant changes to an approved functional design, the PJWG, in concert with the local Users' Committee, should review the conceptual underpinning that might result in recommendations to the Deputy Attorney General and the Attorney General for changes to the original approach.

13. CREATE BETTER LINKAGES WITH MINISTRIES THAT HAVE INTERESTS IN WELL-FUNCTIONING COURTHOUSES

It is recommended that the Attorney General spearhead an initiative to create better linkages among the Ministries of Community Safety and Correctional Services, Children and Social Services, Education and Youth Services, and Economic Development and Trade, regarding mutual interests in courthouse planning and construction.

There is no policy or operations table where Ministers with common interests in courthouse design and construction can consider the ramifications of discrete initiatives that might have an impact on courthouses. As an example, a minister responsible for the business sectors in Ontario might have more than a passing interest in the creation of a new Civil courthouse in Toronto. Similarly the Minister of Community Safety and Correctional Services may wish to have a forum in which to discuss location concerns regarding the site for the replacement of the Don Jail and the location of the new Toronto Courthouse (Criminal).

Acknowledging that there have been some attempts in the past to construct a justice sector policy clearinghouse, the need still exists.

The dialogue that would occur between and among interested Ministries would enhance the quality of pre-design planning.

14. INITIATE A RESEARCH AGENDA

*At a community Black the
Mission of the Agency (general
initiate a research agenda to
support the community work to be
undertaken for the Economic
Development Group)*

There are some research gaps that inhibit systematic policy development. Through the meetings of the Accommodations Council and the Permanent Joint Working Group, a list of requisite policy research will need to be developed and executed.

Such a research agenda would inform the policy development work engaged by the PJWG and the overall Ministry.

15. ADDRESS COURTHOUSE MATTERS AT JUSTICE SUMMIT

It is recommended that the Justice Summit include courthouse matters as a regular agenda item and include key ministers with interests in courthouses that function well.

In order to facilitate more system-wide thinking about the nature and functionality of courthouses, it would be useful to create a standing item on the agenda of the annual Justice Summit to address courthouse issues.

The inclusion of such a standing item at an annual summit attended by judicial leaders and major justice partners would serve to broaden the sense of common understanding.

A PLAN OF ACTION

Expenditures approved for courthouse construction, consolidation and renewal by the government of Ontario over the next five years are estimated at \$385 million. The findings of this report point to the need for policy and process refinement, and development of effective planning strategies for well functioning courthouses of the future.

The following plan of action is offered as a guide for leaders and decision-makers in the justice sector as the synthesis and recommendations arising from this report are considered.

It is organized in sequence of which recommendations need to be implemented soonest. The Plan of Action breaks down those recommendations into two time periods:

A) **Immediate: Within Six Months**

B) **Medium-Term: Within Seven to Eighteen Months**

ACTION PLAN A: 0-6 MONTHS

TABLE A

REFERENCE	ACTION	DELIVERABLE	RESPONSIBILITY
RECOMMENDATION 1	Key decisions regarding implementation of report	Decisions re: structure	Minister, Deputy Attorney General
RECOMMENDATION 2	Establish Permanent Joint Working Group	<ul style="list-style-type: none"> • Terms of Reference and Composition • Short-term deliverables 	Minister, Chief Justice
RECOMMENDATION 3	Establish Secretariat	<ul style="list-style-type: none"> • Second Staff • Secure resources • Develop mandate • Short-term work plan 	Deputy Attorney General, Assist. Deputy Attorney General, Court Services Division
RECOMMENDATION 4	Establish SMC Accommodations Committee	<ul style="list-style-type: none"> • Terms of Reference • Review of key outputs in 06/07 Accommodations Plan • Task the Committee with monitoring the implementation of recommendations 	Deputy Attorney General, Chief Administrative Officer
RECOMMENDATION 5	Create Ministry Accommodations Council	Action plan	Chief Administrative Officer

LEGEND

STRUCTURE:
Recommendations 1-6

FOUNDATIONAL WORK:
Recommendations 7-11

PROCESS:
Recommendations 12-13

ENABLERS:
Recommendations 14-15

ACTION PLAN A: 0-6 MONTHS

TABLE B

REFERENCE	ACTION	DELIVERABLE	RESPONSIBILITY
RECOMMENDATION 8	Develop Fast-Track Policy Framework for four new courthouses	<ul style="list-style-type: none"> Interim principles, occupancy framework Key features Terms of Reference for local Users' Groups 	PJWG, Ministry Senior Management Committee on Accommodations
RECOMMENDATION 11	Commission a study to develop new methodology for modelling growth	Develop RFP tender document	Accommodations Council
RECOMMENDATION 12	Prioritize key process changes required to drive next fiscal year's MAG Infrastructure Plan	<ul style="list-style-type: none"> Consensus on key changes Clarified roles and responsibilities 	Accommodations Council, SMC

LEGEND

STRUCTURE: Recommendations 1-6	PROCESS: Recommendations 12-13
FOUNDATIONAL WORK: Recommendations 7-11	ENABLERS: Recommendations 14-15

ACTION PLAN B: 7-18 MONTHS

TABLE C

REFERENCE	ACTION	DELIVERABLE	RESPONSIBILITY
RECOMMENDATIONS 7, 9, 10	Develop Policy Framework	Ratify guiding principles, occupancy model, policy framework	PJWG, SMC
RECOMMENDATION 6	Permanent Users' Committees in Courthouses	<ul style="list-style-type: none"> • Prioritization across all courthouses • Terms of Reference with clear accountabilities 	Local Judiciary MCOs
RECOMMENDATION 13	Establish linkage with other Ministries	Forum for discussion	Minister, Deputy Attorney General,
RECOMMENDATION 14	Research Agenda	Priority list	Assistant Deputy Attorney General, Court Services Division
RECOMMENDATION 15	Justice Summit	Presentation	Minister, Deputy Attorney General

LEGEND

STRUCTURE:

Recommendations 1-6

FOUNDATIONAL WORK:

Recommendations 7-11

PROCESS:

Recommendations 12-13

ENABLERS:

Recommendations 14-15

1

PURPOSE AND METHODOLOGY

1.1 Terms of reference

Courthouses traditionally have constituted a physical embodiment of the rule of law in our democratic society. As one observer writes, courthouses “incorporate a vocabulary of symbolism that (can) be understood by educated people around the world”, imparting “a sense of gravitas and remind(ing) those present of the awesome powers held by the state”.¹ In many cities and towns across Ontario today, an historic courthouse continues to be one of the most recognizable and respected civic structures in the community.

In the past decade, successive provincial governments have spent more than \$300 million dollars to build or refurbish courthouses in Ontario. In the summer of 2005, a plan to spend an additional \$225 million on court construction over the succeeding five years was announced. Given this significant amount of public investment in courthouse construction, the Ministry of the Attorney General, which is responsible for the provision of court facilities in Ontario, launched a review of capital planning processes to ensure that court facilities are designed in a way that meets current and future program needs and provides open, accessible and timely justice services.

The timing of this review is also influenced by the dynamic pressures facing modern court administration in the last half of the twentieth century. Since responsibility for the

province-wide administration of the courts was transferred from local municipalities to the Ministry of the Attorney General in 1968, the court structure in Ontario has undergone a dramatic re-structuring, influenced in some manner by the 1987 publication of the report of the inquiry into the organization, jurisdiction and structure of the courts of Ontario, conducted by Mr. Justice Thomas G. Zuber.² Increasing case loads and shifts in social and justice policy have given rise to a series of operating pressures in the courts including case processing backlogs and delay, concerns for security, the need for improved automation to manage the work of the courts, and evolving models of dispute resolution, particularly for civil and family matters.

In addition to these operating pressures, the aging physical infrastructure of the courts has been showing signs of strain as existing facilities are used to accommodate a growing and changing courts program. The government has developed capital plans to address these deficiencies, but courthouse construction is an extremely complex, costly and lengthy proposition involving a wide range of justice sector and public social policy interests.

Accordingly, in order to ensure that the investment in courthouse construction and refurbishment in Ontario addresses these pressures effectively and provides good value for taxpayers’ dollars, this study on courthouse capital planning was commissioned.

¹ *Court design a crime*; Christopher Hume; [The Toronto Star](#); March 13th, 2004.

The report of the Ontario Courts Inquiry, Honourable T.G Zuber, 1987

1.1.1 Purpose of study

To help the Ministry ensure that:

- Court facilities are designed in a way that meets current and future program needs.
- Court facilities provide open, accessible, timely services to the public.
- Consistent and effective courthouse planning processes are in place across the province.

1.1.2 Scope of study

The principal researcher for this study was asked to provide two reports to the Ministry.

Report 1: A comparative evaluation of the delivery of court services in three large, consolidated courthouses: the A. Grenville and William Davis Courthouse in Brampton, the Ottawa Consolidated Courthouse and the John Sopinka Courthouse in Hamilton.

Report 1 was to include:

1. An analysis of planned and current occupancy of the three facilities.
2. A description of programs and services provided at the courthouses.
3. An assessment of compliance with current Architectural Design Standards.
4. Documentation and analysis of judicial and stakeholder views and concerns about the establishment of the consolidated courthouses in Brampton, Hamilton and Ottawa.
5. An analysis of program and service delivery issues, including case flow management and delay, public access to services, and administrative processes and efficiencies.

This report was also to provide recommendations to improve future courthouse planning and service delivery, including recommendations that could be applied province-wide in relation to courthouse occupancy, space planning, and design.

The Ministry of the Attorney General also initiated an architectural review meant to complement Part One of this study, in particular to deliver technical information relating to the first three deliverables noted above. The terms of reference for the architectural assessment included a review each of the three facilities on behalf of MAG/ORC to identify, document and analyse user/stakeholder and post-occupancy issues regarding building design and functionality.

Report 2: An evaluation of courthouse planning processes across the province.

Report 2 was to provide a survey of current courthouse planning mechanisms including:

1. Corporate planning structures
 - ♦ Roles and responsibilities of the Ministry of the Attorney General (Facilities Management Branch, Court Services Division, other Divisions), the Ministry of Public Infrastructure Renewal, the Ontario Realty Corporation Design Standards Committees
2. Local facilities planning and management
 - ♦ Roles and responsibilities of bench, bar, Managers of Court Operations, facilities management consultants, court users and stakeholders

Recognizing that these terms of reference could be construed to embrace a wide range of court-related issues, the project team developed a project charter to focus the terms of reference and to identify those areas that were considered outside the scope of the study. Areas deemed to be outside the scope include:

- An operational review or detailed process mapping of the three consolidated courthouses
- A criminal case flow review
- A transcription of all meetings held

The terms of reference also required the project team to utilize “the services of agencies and organizations with expertise in both courthouse planning and court

case management in Ontario and in other jurisdictions.” To fulfil this expectation, the project team invited Richard Van Duizend, Principal Court Management Consultant, National Center for State Courts in the United States, to provide his considerable international expertise regarding best practices in courthouse design. In addition, a leading American courthouse design consultant, Todd Philips, was retained to review and advise on the report’s analysis and draft recommendations.

As the work of the study progressed, the project team identified a high level of interdependency between the Report 1 and Report 2 streams. Discussions with participants from the consolidated courthouses invariably led to review of capital planning processes in that particular

facility. Accordingly, a proposal to integrate the two parts of the study into a single report was presented to the Steering Committee in July, 2005, in the form of a draft chapter outline. This proposal was accepted, and both components of the study – the comparative evaluation of the Brampton, Hamilton and Ottawa courthouses, and the review of capital planning processes province-wide– have been combined into this single report.

1.2 Project steerage

In order to reflect senior executive sponsorship of the study and ensure that the work met its stated objectives, a steering committee of senior judiciary and Ministry executives was assembled to provide advice and direction to the project team. The members of the steering committee were:

Superior Court of Justice

The Honourable Mr. Justice J. Douglas Cunningham
Associate Chief Justice

The Honourable Mr. Justice Dennis Lane (Toronto)

The Honourable Madam Justice Anne Molloy (Toronto)

Ontario Court of Justice

The Honourable Mr. Justice Donald A. Ebbs
Associate Chief Justice and Coordinator of Justices of the Peace

The Honourable Mr. Justice David Wake
Associate Chief Justice
(March 2005 - September 2005)

The Honourable Madam Justice Anne-Marie Bonkalo
Associate Chief Justice
(September 2005 – March 2006)

The Honourable Mr. Justice John Payne
Regional Senior Justice, Central East Region

Ministry of the Attorney General

Debra Paulseth, *Assistant Deputy Attorney General*,
Court Services Division
(March 2005 – November 2005)

Ann Merritt, *Acting Assistant Deputy Attorney General*
Court Services Division
(November 2005 – March 2006)

Sandra Wain, *Director*
Corporate Planning Branch, Court Services Division

Lynn Norris, *Senior Manager*
Courthouse Planning Study, Court Services Division

Stephen Rhodes, *Assistant Deputy Attorney General*
Corporate Services Management Division

Michelle Leonard, *Director*
Facilities Management Branch,
Corporate Services Management Division
(March 2005 – January 2006)

Judy Stamp, *Director*
Facilities Management Branch,
Corporate Services Management Division
(January 2006 – March 2006)

Paul Lindsay
Assistant Deputy Attorney General, Criminal Law Division

Principal Researcher

Dr. Elaine Todres
President, Todres Leadership Counsel

The principal researcher of the study met with the Steering Committee four times to discuss a) the identification of the various stakeholders associated with the courts, b) the proposed methodology of the study, c) interim findings and observations, and d) the draft final report.

1.3 Project team

The Public Sector Transformation Group (PSTG), a consulting firm, was chosen to conduct the courthouse study and assembled a team of highly qualified and experienced consultants. In addition, the Ministry of the Attorney General provided court program experts to help the project team and provide liaison with the Ministry and stakeholders.

The members of the project team were:

- Dr. Elaine Todres, Principal Researcher
- Dr. Rubin Todres, Research Director
- Mr. Rick Findlay, PSTG
- Gerald Root, Senior Facilities Consultant
- Richard Van Duizend, Court Management Consultant
- Lynn Norris, Senior Manager, Court Services Division
- Gaynor Chittle, Project Researcher, Court Services Division
- Dr. Todd Philips, External Consultant

1.4 Approach to data collection

Both qualitative and quantitative data were gathered in four streams:

1. Document review
2. Consultations
3. Empirical data
4. Architectural assessment

1.4.1 Document review

A considerable number of studies, reports and surveys have been completed by a variety of sources in the past decade to assess the condition of court facilities in Ontario. As part

of its data collection, the project team identified the pertinent documents that have been generated to date and prepared an annotated bibliography to highlight the key themes or findings of each (see Appendix C). In addition, the National Center for State Courts completed a review of relevant reports and papers from the United States for inclusion in the bibliography.

1.4.2 Consultations

The terms of reference for the study prescribed that the project team would complete consultations with a wide variety of courthouse occupants and users to identify issues with the functional design of the three consolidated courthouses and overall planning mechanisms province-wide. A consultation strategy was developed and approved by the Steering Committee. The key elements of the consultation strategy included a commitment to be as inclusive of courthouse users as possible, while minimizing disruption in day-to-day court operations. An effort was also made to canvass the views of courthouse users and corporate groups involved locally or centrally in court operations and capital planning.

Consultation participants from the three consolidated courthouses were identified through the Offices of the Chief Justices, provincial associations and the local Managers of Court Operations. In order to encourage maximum participation and a wide variety of input, each user group was asked to invite representatives from its area to attend a consultation session. Consultation sessions, generally scheduled for two hours, took place in the consolidated courthouses. The project team was given a tour of each court facility and also met with representatives at the Maplehurst and Vanier Correctional Centres, which are the primary feeder correctional facilities for in-custody accused attending

the Brampton and Hamilton courthouses.

Consultations in the consolidated courthouse sites were scheduled in the Spring/ Summer of 2005 as follows:

<i>Brampton</i>	<i>May 10, 16, 17, 18</i>
<i>Hamilton</i>	<i>June 7, 9 and 10</i>
<i>Ottawa</i>	<i>June 13, 14 and 15</i>

Please see Appendix B for a listing of consultation meetings held at each site.

In addition, the key courthouse corporate user groups were contacted and asked to identify representatives to participate in the consultation process. Representatives of other ministries affected by courthouse operations and planning were also canvassed. With considerable input from the National Center for State Courts team member and a review of appropriate literature, the project team created an interview guide around which to structure the consultation meetings. (See Appendix A) The interview guide was designed to ensure consistency in approach across all consultations with all stakeholders. Participants were provided with a copy of the project's terms of reference in advance of each consultation session.

1.4.3 Empirical data review

In addition to the qualitative information gathered from the document review and consultation process, considerable statistical data for the three consolidated courthouses were obtained from the Ministry of the Attorney General and the Offices of the Chief Justices. These data are used to compare the workloads of the three consolidated sites to inform the analysis and understanding of how facility design can affect the overall delivery of court services.

1.4.4 Architectural assessment

The Ministry of the Attorney General (MAG) and the Ontario Realty Corporation (ORC) also engaged Perkins Eastman Black Architects to complete a facility planning

study for the following courthouses: Brampton, Ontario; Hamilton, Ontario; and Ottawa, Ontario.

The main objective of the study was to review each facility and to identify, document and analyse user/stakeholder and post-occupancy issues connected with building design and functionality. Each site review involved using existing information and incorporating data elicited from the site visits.

The assignment involved the following key tasks:

- Attendance and involvement in stakeholder consultations at each of three courthouse locations, which took place over several days at each facility.
- Detailed site tours of each courthouse, as required, to realize the scope of the project.
- Acquisition and review of all relevant data related to the three courthouse projects including, but not limited to, reports, drawings, building programs, correspondence, etc.
- The preparation of accurate composite plans to reflect the as-built condition and current program changes for each project.
- Detailed area analysis for each courthouse.
- The review and analysis of the Architectural Design Standards (ADS) for each courthouse.
- The review and analysis of compliance with the *Ontarians With Disabilities Act (ODA)* for each courthouse.
- The review of the impact on the courthouse from external agencies.
- A general review of the procurement and /or construction process for each courthouse.
- An analysis of key design concepts for each of the courthouse buildings including the regional context, site, vehicular access, pedestrian access, blocking and stacking approach, building section analysis, typical floor organization, typical floor circulation and structural grid analysis.

2

THE JUSTICE SYSTEM

Before embarking on a review of capital planning for courthouses in Ontario, it is important to understand the structure and functions of the courts and the types of court services that need to be accommodated in a typical courthouse.

As set out in the Courts of Justice Act, the court system in Ontario is divided into two separate courts: the Court of Appeal for Ontario and the Court of Ontario. The Court of Ontario is further divided into two Divisions: the Superior Court of Justice and the Ontario Court of Justice.

2.1 The Courts of Ontario

2.1.1 The Court of Appeal for Ontario

The Court of Appeal is the highest court in the province and with the exception of inmate appeals, which are heard in Kingston, it sits only in Toronto at Osgoode Hall. Judges of the Court of Appeal are appointed by the federal government, and the court sits either with one judge alone or as a three-judge panel. The Court of Appeal is led by a Chief Justice and an Associate Chief Justice. This court hears appeals from indictable criminal matters, inmate appeals, civil appeals from the Superior Court of Justice, appeals from the Divisional Court (a branch of the Superior Court of Justice) and some appeals involving youth.

2.1.2 Superior Court of Justice

The Superior Court of Justice is also composed of federally appointed judges and sits in 49 permanent court locations or judicial districts across Ontario. Like the Court of Appeal, it is led by a Chief Justice and an Associate Chief

Justice. The Superior Court of Justice is grouped into eight regions, with a Regional Senior Justice appointed to each Region to oversee scheduling and other judicial issues.

The Superior Court of Justice hears a variety of criminal and civil matters, including:

- Indictable criminal matters
- Some youth criminal matters
- Bail reviews
- Summary conviction appeals from the Ontario Court of Justice
- Civil matters over \$10,000

The Court also has jurisdiction to hear family matters, however this jurisdiction varies across the province. In seventeen judicial districts in Ontario, a Family Court branch of the Superior Court of Justice provides a unified court where all family matters can be heard. In non-Family Court branch court sites, the Superior Court of Justice deals with claims for divorce, division of property, support, custody and access.

The Divisional Court branch of the Superior Court of Justice hears civil appeals under \$25,000 and appeals and reviews by administrative tribunals and government agencies. The Divisional Court sits in various locations throughout the province in panels of three judges.

The Small Claims Court is also a branch of the Superior Court of Justice, with Deputy Judges (senior lawyers) generally presiding. The court, located in 62 places across the province, can hear civil claims up to \$10,000.

2.1.3 Ontario Court of Justice

Judges are appointed to the Ontario Court of Justice by the provincial government, as are justices of the peace who also preside in this court. The Ontario Court of Justice is led by a Chief Justice and two Associate Chief Justices, one of whom also serves as Coordinator of Justices of the Peace.

The court is divided into seven regions, with a Regional Senior Justice and a Regional Senior Justices of the Peace appointed to oversee scheduling and other judicial issues. The Ontario Court of Justice sits in more than 175 locations throughout the province.

All criminal matters begin in the Ontario Court of Justice, and more than 95 per cent of these cases are resolved in this court. The scope of criminal matters involves most matters involving youth, the Provincial Offences Act (POA), and appeals from a justice of the peace.

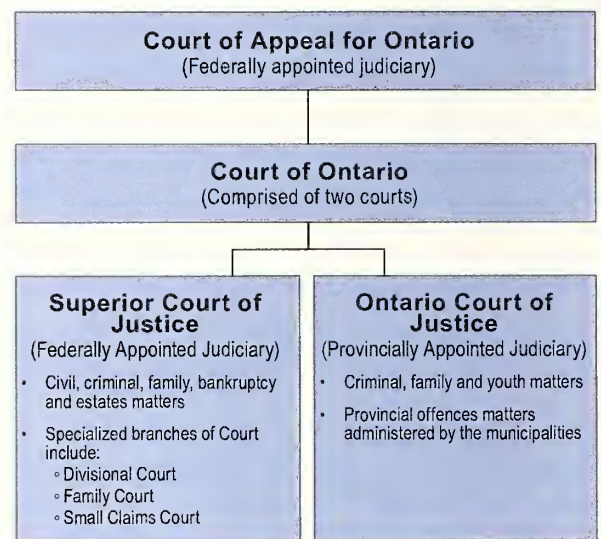
In addition to presiding over bail hearings and many criminal first appearance courts, justices of the peace also preside over prosecutions under the Provincial Offenders Act (POA), most of which are administered by courts operated by the municipalities rather than the Province.

The Ontario Court of Justice also hears some family matters in jurisdictions where the Family Court branch of the Superior Court of Justice does not exist, including child protection cases and claims involving custody, support, access and adoptions.

2.1.4 Jurisdictional Responsibility

Figure 1

ONTARIO COURT STRUCTURE: AN OVERVIEW



PARTICIPANTS IN ONTARIO COURTHOUSE PROCESSES



2.2 The justice system: an overview

The justice system is a highly complex organism composed of an independent judiciary, multiple participants and users from multiple governments, private and public sector settings, and multiple funding streams. The functioning of this very complex system is a major indicator of the health and vibrancy of a democracy.

2.2.1 The participants

It is fundamental to a review of courthouse planning to understand the variety of people and organizations involved in the administration of justice on a daily basis in local courthouses across the province. The common public perception is that participation in the court process is restricted to lawyers, their clients and a judge in a courtroom, all engaged in an effort to resolve some form of dispute. Often this perception revolves around a view of the criminal arena and introduces the involvement of public

prosecutors and law enforcement agencies securing the custody of an accused person while in the courthouse.

In fact, there is a much greater variety of participation in the daily operations of a courthouse than suggested in the typical view, and many of the participants are involved in the processing of non-criminal matters, with much of the “action” taking place outside a courtroom. There is a large court administration component in every courthouse: the public plays a crucial role by serving on juries; a variety of social agencies provide support to victims, families in distress, accused persons and civil litigants; local police services provide courthouse security and support to criminal prosecutions. Each of these groups has a distinct and at times opposing role, and each contributes to the fair and timely resolution of disputes brought before the courts in Ontario. The participants in the court process cross three levels of government, involve multiple ministries within

the Ontario government and perhaps most notably, include a separate branch of democratic government – the judiciary. In order to understand how best to plan to accommodate the work of the courts, it is first necessary to understand the role of each group in the court process and the type of space each has occupied traditionally in the courthouse.

2.2.1.1 The Ministry of the Attorney General

In setting out the powers of the provinces of Canada, the *Constitution Act, 1867* in section 92.14, states that the provincial legislatures shall have exclusive power to make laws concerning “the administration of justice in the province, including the constitution, maintenance, and organization of provincial courts, both of civil and of criminal jurisdiction, and including procedure in civil matters in those courts.” In Ontario, this power is further delegated under Section 72 of the *Courts of Justice Act* (CJA), which provides that “the Attorney General shall superintend all matters connected with administration of the courts other than matters that are assigned by law to the judiciary.”

This responsibility, in turn, is carried out by a number of Divisions of the Ministry of the Attorney General (MAG) which are mandated to plan and deliver a variety of justice services. There are primarily three Divisions within the MAG that are present in local courthouses:

- the Criminal Law Division
- the Ontario Victim Services Secretariat
- the Court Services Division

2.2.1.1.1 Court Services Division

The Court Services Division (CSD) is the arm of the MAG that is responsible for the administration of the courts in Ontario. This includes court office services to provide information to parties and the public regarding court processes, to receive documents to be filed with the court, to maintain court records, and to support a variety of court programs such as Family Law Information Centres. These services are highly visible in most courthouses, often located

on the ground floor, and include private offices for managers, open office areas for staff, and public counters for providing direct service. Enforcement services are generally combined with the general administrative office areas and public counters.

Considerable space is also allocated for the storage of court documents. CSD also manages administrative support for the judiciary and the jury system, and provides courtroom support through court clerks, registrars, reporters and interpreters. Judges’ secretaries are generally located in office space close to the judicial chambers, while court support staff usually share open office space when they are not in the courtroom. The court support function also requires considerable space for the storage of court recordings and exhibits.

Mediation programs for civil and family matters are also managed through CSD, as well as enforcement services for civil judgments, criminal fines and restitution. Some mediation services are provided in the courthouse itself, requiring private office space and meeting rooms as well as a reception and waiting area. Many mediation services are coordinated through staff working in an office area in the courthouse, with the actual mediations taking place off-site.

The CSD has seven administrative regions, each headed by a Director of Court Operations. Each courthouse is managed by one or several Managers of Court Operations. These positions are responsible for the overall program management of the courthouses in Ontario. Most of the other participants who occupy space in the courthouse rely on the Court Managers as the fulcrum of information and support. There are more than 2,800 staff in the Court Services Division, delivering court services in 181 locations.

2.2.1.1.2 Criminal Law Division

The Criminal Law Division (CLD) is responsible for

prosecuting most criminal and many provincial offences before the courts in Ontario. This division also represents the Crown in right of Ontario on criminal appeals, provides advice to the Attorney General on changes to the Criminal Code of Canada and crown policy, and leads a number of program initiatives to improve the processing of criminal cases through the court system.

The Division is responsible for the prosecution of approximately 500,000 charges every year, laid by 20,000 police officers across the province. Each charge must be thoroughly screened and reviewed by the Crown Attorneys to determine whether there is an effective alternative to prosecution, such as community service or restitution, or whether the matter should proceed to court. The *Crown Attorneys Act, s. 11*, provides that “the Crown Attorney shall aid in the local administration of justice and perform duties assigned to Crown Attorneys under the laws in force in Ontario.”

Most local Crown Attorneys have their primary offices in courthouses and, at a minimum, occupy day offices in the courthouse with permanent offices located in close proximity. The Crown Attorney's Office in the courthouse includes private offices for the Crown and Assistant Crowns. Crowns prepare for cases, conduct meetings with police officers, witnesses and victims, and complete administrative duties in these private offices. The Crown's space also generally includes a public counter and reception space, boardroom, space for administrative and paralegal assistants and robing rooms. Considerable space is also required for file storage and space for a law library may be provided. Crown Attorneys spend the majority of their time in proceedings in the courtrooms themselves.

Ideally, the Crown's office is located in close proximity to the Victim Witness Assistance Program in the courthouse, as well as adjacent to the Police Court Bureau.

CLOC is divided into six administrative Regions, each headed by a Director of Crown Operations. The Crown Attorney in each court location reports through the Director, and is

usually supported by one or more Deputy Crowns. The crowns also require easy access to the courtrooms, and security for crowns moving throughout the courthouse has become an increasing concern in recent years.

2.2.1.1.3 Victim/Witness Assistance Program

The need to provide specialized support for victims of crime has been a steadily growing priority for successive governments in Ontario as well as across Canada and internationally since the early 1980s. At the national level, the growing priority placed on victims needs has been reflected in a series of change to the Criminal Code of Canada and related case law. These include giving victims a right to provide input to sentencing and changes aimed at making it easier for victims to testify through the use of various testimonial aids.

In 1987, Ontario established the first Victim/Witness Assistance Program (V/WAP offices in ten courthouses across the province). By the end of 2006, V/WAP will have expanded to all court jurisdictions in Ontario.

V/WAP coordinates the flow of information among victims, the Crown Attorney and the public at local courthouses, to ensure that victim and witness rights are addressed in criminal proceedings. This includes crisis intervention, providing victims' input regarding bail and sentencing conditions, preparation to testify in court, and the provision of safe, segregated waiting areas. V/WAP serves the province's most vulnerable citizens, many of whom are victims of domestic violence.

As the V/WAP program has matured and expanded over the past 15 years, its requirement for space in courthouses has also expanded. V/WAP requires private offices for staff to conduct interviews and prepare victims and witnesses for court. Many V/WAP programs provide separate child-friendly waiting/play areas and separate waiting areas for victims testifying in court. Ideally, the V/WAP offices need to be located in proximity to

the Crown Attorneys' offices and to the courtrooms where criminal matters will be heard.

2.2.1.2 The judiciary

Perhaps the most identifiable participants in the justice system are the judges. One of the most crucial characteristics of the judiciary that sets it apart from all other courthouse participants is its independence, enshrined in the principle creating the third branch of government in a constitutional democracy adhering to the rule of law. While there is a considerable body of literature on the importance of judicial independence, it is sufficient for the purpose of this study to note that the judiciary is not like any other user, client, "stakeholder" or group in the public sector. The judiciary is a separate and distinct branch of government with constitutional and legislative roles and responsibilities. Its role within the justice system is unique.

In addition to the traditional role of adjudication, the judiciary in Ontario has been increasingly active in the administration of justice in Ontario. While the joint responsibilities of the Attorney General and the judiciary to administer the court system has been the subject of considerable research and debate over the past several decades, it is apparent through discussions with local participants at the various court sites that the judiciary and the Ministry work cooperatively to ensure the proper functioning of the courts. Various sections of the *Courts of Justice Act* set out the powers and duties of

various "executive" judicial officers to "direct and supervise" the sitting of the courts.

Section 76(1) of the Courts of Justice Act lists the powers and duties of a Chief Justice or Regional Senior Justice. Sections 77(1) and 78(2) spell out in more detail the court administrative function.¹

In a Supreme Court of Canada decision known as the "Provincial Court Judges' Reference," Mr. Justice LeDain stated that "an essential condition of judicial independence" is control by the courts, "over the administrative decisions that bear directly and immediately on the exercise of the judicial function."² It seems apparent that administrative decisions regarding the provision of courthouse facilities certainly "bear directly and immediately" on the work of the judiciary, given that the proper adjudication of most court matters requires an appropriate forum for that hearing. Accordingly, the judiciary has played an increasingly active role in courthouse capital planning in Ontario.

The judiciary typically occupies private office space in the courthouse in addition to using the courtrooms. Private judicial offices, or "chambers," are usually located in a quiet, secure area of the courthouse, with separate circulation access to parking and the courtrooms. The judges' office area generally includes space for a boardroom, library and administrative support staff.

¹ Section 76 (1) The power and duties of a Chief Justice or Regional Senior Justice

1. Determining the sittings of the court
2. Assigning judges to the sittings
3. Assigning cases and other judicial duties to individual judges
4. Determining the sitting schedules and places of sittings for individual judges
5. Determining the total annual, monthly and weekly workload of individual judges
6. Preparing trial lists and assigning courtrooms to the extent necessary to control the determination of who is assigned to hear particular cases

Section 77 (1) Registrars, sheriffs, court clerks, assessment officers and any other administrative officers and employees that are considered necessary for the administration of the courts in Ontario may be appointed under the *Public Service Act*, R.S.O. 1990, c. C.43, s. 77 (1).

Section 78 (2) Court personnel referred to in subsection (1) who are assigned to and present in a courtroom shall act at the direction of the presiding judge, master or case management master while the court is in session. 1996, c.25, s.1 (1-4).

Justice LeDain described these decisions as follows:

"Judicial control over... assignment of Judges, sittings of the courts, and court lists – as well as the related matters of allocation of courtrooms and direction of administrative staff engaged in carrying out these functions has generally been considered the essential minimum requirements for institutional or "collective" independence." (p.712)

2.2.1.2.1 Resourcing

The federal government, under the auspices of the *Judges Act*, pays its federally appointed Superior Court Judges, whereas the Province pays the provincially appointed Ontario Court Justices. Staffing and resourcing to the Offices of the Chief Justices are paid by the Province through the Court Services Division of the MAG and its votes and items.

2.2.1.2.2 Juries

Jury service is considered to be a fundamental civic duty in Canada. Often the only contact the public will ever have with the court system is through attending the courthouse as a prospective juror. Only cases in the Superior Court of Justice may be heard before a jury. Section 108 (1) of the *Courts of Justice Act* provides that “in an action in the Superior Court of Justice that is not in the Small Claims Court, a party may require that the issues of fact be tried or the damages assessed, or both, by a jury, unless otherwise provided.” A jury is selected for a specific case, and once a decision has been delivered, the jury is released. Civil juries are composed of six members while criminal juries have 12 members.

Juries require a number of specialized accommodations in a courthouse. It is imperative that potential jurors not feel influenced or threatened in any way, and therefore jury-related spaces ideally are segregated from other areas in the courthouse.

A jury assembly area is required to accommodate the large number of potential jurors who are summoned to the court as part of a “jury pool.” The jury assembly area should be a dedicated, large open area with comfortable seating. As potential jurors could spend several days waiting in this area until jury selection is completed, the comfort of the occupants should be given special consideration.

The jury pool is usually divided into smaller groups (usually around fifty people) and escorted from the jury assembly area to a courtroom for the jury selection process. The

courtroom should be in close proximity to the assembly room, and must be large enough to accommodate at least fifty people in the public seating area of the courtroom.

Once a jury is selected or “empanelled,” the individual jurors will either remain in the courtroom used for jury selection to proceed with the trial, or may be escorted to a separate, usually smaller courtroom where the trial will take place. During the life of the trial, the jury also requires access to a jury room. This is a private room in the secure circulation area of the courthouse, where the jury can retire during court recesses and deliberations. Often, this is where the jury will have its meals as well. The jury room resembles a large boardroom and must have access to private washroom facilities.

2.2.1.3 The private bar

The private bar in Ontario, considerable in size and specialization, provides its professional services to clients in courthouses. While the number of self-represented litigants in all practice areas is on the rise in the courts in Ontario, courthouses are still most commonly identified as the primary workplace for lawyers.

Lawyers serve as litigators or advocates whenever there is need for legal advice or legal representation in a brewing legal dispute or conflict of rights and interests. In the context of criminal law, the role of lawyers is closely linked to the basic principles of the presumption of innocence, the right to a fair and public hearing and the protection of fundamental rights and freedoms.

The amount of time individual lawyers actually spend in the courthouse itself is related to the type of law they practice. Criminal lawyers generally spend more of their time at the courthouse, appearing in courtrooms to represent clients or meeting with the Crown Attorney to discuss case progress. There is less of a requirement for civil and family lawyers to attend regularly at the courthouse, as much of their work takes place in their

private offices, meeting with clients and completing case preparation. As most of these types of cases are settled without ever reaching a courtroom, civil and family lawyers' main contact with the courthouse would be to attend the administrative office to file documents and more infrequently, to attend hearings and trials.

Regardless of the type of law practiced, lawyers access common facilities within a courthouse in addition to the courtrooms themselves. Lawyers are required to wear court robes when appearing for many types of matters in the Superior Court of Justice and therefore appropriate male and female robing rooms are usually provided. Lawyers also require meeting rooms or interview rooms in close proximity to the courtrooms. They can hold private and confidential discussions with their clients there in relation to the hearing of a case in the court that day.

Traditionally, there has been provision in the courthouse for a law library and lounge or meeting space for the local law association. The library provides lawyers with access to case law which may be required during a court hearing or that may have been requested by a judge during a hearing. Although more lawyers are conducting legal research electronically, the requirement for standard legal texts in a law association library in the courthouse is still strongly supported by the bar. A meeting space or lounge is also often provided in the courthouse as an area for lawyers to meet and conduct settlement discussions for particular cases.

2.2.1.4 Legal Aid Ontario

Legal Aid Ontario (LAO) focuses on providing access to justice for people across Ontario. Established through the *Legal Aid Services Act, 1998*, LAO's mandate includes promoting access to justice for low-income individuals, encouraging and facilitating flexibility in the provision of legal aid services and recognizing the diverse legal needs of low-income individuals and disadvantaged communities, all in a framework of accountability for the expenditure of public funds. In 2004 alone, LAO served 1,000,000 people, often the most vulnerable people in the province.

In terms of its interaction with courthouses, Legal Aid Ontario's key businesses are: (1) the provision of legal services by private bar lawyers, paid through LAO certificates, to financially needy criminal, family, immigration and refugee, and civil clients, and (2) duty counsel/advice lawyer services. With respect to the duty counsel function, there are 51 staff duty counsel, 60 supervisory duty counsel, and more than 1,700 private bar lawyers providing duty counsel services in Ontario.

Legal Aid Ontario maintains numerous area offices throughout the province. Where possible, area offices are located in close proximity to the courthouse to facilitate access for clients coming directly from court. Requests for certificates are managed through these area offices, rather than in the courthouse, although a few area offices are located within courthouses themselves. A recent Ministry of the Attorney General sponsored Justice Summit recommended that all courthouses should include an LOA office to process certificate requests.

LAO criminal and family duty counsel provide direct services to clients in more than seventy courthouses and over thirty fly-in locations, with an LAO presence in every courthouse and tribunal in Ontario. Duty counsel occupy private or shared offices accessible to the public in courthouses where space is available. Where possible, these offices are located next to the high volume criminal courtrooms, or in the family law area in close proximity to the information centre.

2.2.1.5 Police services

2.2.1.5.1 Court security

Section 137 of the *Police Services Act* imposes responsibility on the municipal police service boards and the Ontario Provincial Police to provide court security in their respective jurisdictions.

Section 16 of Regulation 3/99 under the Act, namely the Adequacy Standards Regulation, requires that where a police service board has court security obligations under Section 137, the Chief of Police shall prepare a court security plan. Section 29 of the regulation requires the local police service to establish policies with respect to court security.

Section 137 requires a police service board to be responsible for:

- Ensuring the security of judges and of persons taking part in or attending proceedings
- Ensuring the security of premises during the hours when judges and members of the public are present
- Ensuring the secure custody of persons in custody who are on or about the premises, including persons taken into custody at proceedings
- Determining appropriate levels of security for the purposes of the above paragraphs

Section 16 of the Adequacy Standards Regulation requires that where a police services board has court security obligations under s. 137 of the *Act*, the Chief of Police shall:

- Prepare a court security plan
- Establish procedures on court security that address supervision and training
- Ensure that court security personnel have the knowledge, skills and abilities to perform court security functions

Finally, section 29 of the regulation requires police service boards to establish policies with respect to court security. The regulation contains samples of Board policies, and non-binding best practices guidelines regarding the establishment of a court security committee, a court security assessment tool, an approach to the analysis of cases, a tool for security personnel and procedures assessment, an emergency plan assessment, and a physical assessment.

2.2.1.5.2 Prisoner transportation

Prisoner transportation remains the responsibility of the municipalities under S. 204 of the *Municipal Act*. The municipality maintaining the police service is responsible for the transportation of remanded and sentenced adult prisoners and young persons to and from court. The *Police Services Act* permits municipalities to use police officers or Special Constables to carry out these duties and to share or hire services.

Historically, courthouses and the local jail were often co-located in a community. Under this arrangement, prisoners' transportation was rarely a concern, as prisoners would be walked from the jail segment of the building to the courtroom as their matter was called. As the court system and number of in-custody accused expanded, separate local jails were built.

In the 1970s, a number of smaller local jails were replaced with regional detention centres that served a number of court locations. While these regional detention centres were designed to improve conditions for inmates and take advantage of efficiencies available through economies of scale, police agencies expressed concerns regarding the additional distances and costs related to the transportation of prisoners to court. In some instances, a police service would be required to travel well outside its jurisdiction - often then, and still today, without sufficient communication - to pick up prisoners and transport them back into the police jurisdiction for court. The impact of this increased transportation activity was very often delays in the courtroom as the judge would await the delivery of an accused person from the correctional centre.

In response to the concerns of local police agencies, the Ministry of Correctional Services, notwithstanding no legal requirement to do so, offered to reimburse police services affected by local jail closures at a fixed rate for incremental travel costs associated with adult prisoners and young persons transported between institutions

RELATIONSHIP BETWEEN COURTS AND CORRECTIONAL FACILITIES (ONTARIO)

TABLE 1*

CORRECTIONAL FACILITY	CAPACITY	NUMBER OF COURTS SERVED	AVG. DISTANCE BETWEEN CORRECTIONAL FACILITIES AND COURTS	TRANSPORTATION SUPPLIED BY
ALGOMA	56-60	6	173 km	OPP Constables, Special Constables, OPP Transportation Unit (OTU), Sudbury Police
BRANTFORD	83	3	14 km	Special constables, OPP Special Constables
BROCKVILLE	48	4	29 km	Special constables, OPP Constables, OPP Special Constables
CENTRAL EAST	1190*	12	88 km	OTU
CENTRAL NORTH	1190*	10	100 km	OTU, Midland Police, OPP Constables, Other
CHATHAM	62	1	5 km	Special Constables
ELGIN MIDDLESEX	440	4	38 km	Special Constables, OPP Special Constables
FORT FRANCES	23	3	82 km	Atitokan Police Constables, OPP constables
HAMILTON	500	3	39 km	OPP Constables, Hamilton Police, Special Constables, OPP Special Constables
KENORA	120	32	many courts are fly-in courts	Nishawabi-Aski Police Services (NAPS), OPP Constables, Dryden Police, Kenora Police
MAPLEHURST	1190*	11	42 km	Peel Police, Special Constables, OTU, Toronto Police
MONTEITH	230	12	132 km + 2 fly-in courts	NAPS, OPP Constables, Special constables
NIAGARA	264	3	28 km	Special Constables
NORTH BAY	120	6	97km	OPP Constables, OTU, Special constables
OTTAWA	300	6	77km	OTU, Special constables
OWEN SOUND	54	1	5 km	Special constables
QUINTE	197	8	51 km	OPP Constables, Special constables, OPP Special Constables
SARNIA	97	1	1 km	Special constables
STRATFORD	53	5	53 km	OPP Constables, Stratford Police
SUDBURY	180	8	153 km	NAPS, OPP Constables, OTU, Special constables
THUNDER BAY	130	12	159 km + 1 fly-in court	NAPS, OPP Constables, Special constables
TORONTO EAST	470	1	1 km	Special constables
TORONTO JAIL	610	3	3 km	Special constables, Correctional Services
TORONTO WEST	520	2	2 km	Special constables
VANIER CENTRE FOR WOMEN	294	25	60 km	Special constables, OTU, OPP Constables
WALKERTON	52	1	5km	Special constables, OPP Constables
WINDSOR	130	3	21km	Leamington Police, Special constables

* Information supplied by Offender Transportation Unit, Ministry of Correctional Services

and the courts. As a result, while a local police agency would remain responsible for providing the transportation between the jail and the courthouse, they would be reimbursed for the associated costs by the province, often on a per kilometre rate.

The implementation of the Adult Infrastructure Renewal Project (AIRP) in the late 1990s and early 2000s – designed to make corrections safer, more effective, accountable and cost-efficient – placed further pressures on the transportation of prisoners to court facilities. The construction of three “super jails” led to the closure of more antiquated local and regional institutions, centralizing the housing of offenders in a smaller number of large correctional facilities.

The Ministry of the Solicitor General and Correctional Services decided to coordinate the transportation of offenders from these and other regional centres to local courthouses. This service would only be available in locations affected by the closure of antiquated local and regional institutions and subsequent construction of the “super jails,” and was designed to ensure that local police agencies did not bear the cost of retrieving offenders from correctional centres outside of their policing boundaries. It was estimated that \$15 million would be required annually to support this offender transportation system.

The offender transportation system across Ontario is highly fragmented, with varying approaches to the financing and delivery of the service. The justice system experiences frequent and recurring delays associated with transportation of accused. In some locations, local police agencies execute and fund the transportation of offenders. In other locations, local police agencies execute the transportation function, but are reimbursed by the province through the Ministry of Community Safety and Correctional Services. In still other locations – those affected by the closure of a local or regional institution – local police agencies have contracted with the Ontario Provincial Police to provide offender transportation

services, pursuant to a Memorandum of Understanding with MCSCS. In these locations, the province funds the cost of offender transportation. At the time of this study, the OPP held contracts with 56 municipal police agencies to provide offender transportation services. Table 1 identifies the adult correctional centres across the province, the court locations associated with each correctional location and the police agencies responsible for providing transportation from the correctional centres to each court location. In addition, there is a presentation of the average distance between correctional facilities and the courts they serve.

2.2.1.5.3 Police Bureau - the court support function

The various municipal and provincial police services in Ontario have a visible presence in courthouses for a variety of functions; officers attend court on a daily basis as witnesses for criminal matters; under the *Police Services Acts, 137(1)*, the police are responsible for providing security in the courthouse; officers may attend the Crown Attorneys’ offices for meetings to plan for a criminal prosecution. In addition to these functions, many police services have a “Police Bureau” or “court liaison office” located in the courthouse.

The role of the Police Bureau varies from courthouse to courthouse across the province, and is based on historical practices and informal arrangements, rather than on any legislated, regulated or standardized policy requirement for the police to provide a particular service. The Police Bureau office is staffed primarily by civilian Special Constables and other civilian staff who provide administrative support to the criminal prosecution process. This process may include functions that take place prior to a case resolution and those arising from a conviction and sentencing.

The key Police Bureau functions for cases pending before the court include:

Preparing and vetting disclosure materials

Police personnel are responsible for assembling

investigative materials and evidence that will be relied on at a criminal trial, and providing sufficient copies of the disclosure package to the Crown Attorney for both the Crown and accused/defence counsel. In some locations, police staff in the court services bureau vets the disclosure material to remove any sensitive information. In other locations, this review is completed by staff in the Crown's office. Disclosure materials include the investigating officer's notes, written or videotaped statements by the accused or witnesses, and other documentary evidence. Physical evidence generally remains at the police division until trial. The court bureau also receives additional disclosure and ensures that the new materials are recorded (including updating automated systems), added to the corresponding file and distributed to the Crown.

In most court locations, disclosure materials are available in the courtroom at the first appearance. Additional disclosure materials are available to be picked up from the Crown's office.

Preparing and storing the Crown Brief

In addition to preparing the disclosure materials, police personnel are responsible for creating the Crown Brief (also referred to in some locations as the Crown package). The Crown Brief is a non-standard document envelope with information regarding the accused person, the offence(s), Crown's screening position, scheduled court dates, and other case details recorded on the front and back of the envelope. Disclosure materials, correspondence, copies of notices and an overall history of events relating to the case are stored inside the Crown Brief envelope and/or recorded on the face of the folder.

Police Bureau staff receive the Crown Brief, record the appropriate data in automated systems, and in some locations, attend before the Justice of the Peace to swear the Information (the formal charging document for a criminal matter). Subsequent correspondence and inquiries are generally handled through the Police Bureau office.

As the case progresses through the court process (involving multiple court dates in the majority of cases), information is

recorded on the Crown Brief and related documents are added. In some court locations, the Crown Brief is updated by Police Bureau staff to reflect the outcome of court appearances. This may be accomplished based on updates from the court docket, or by a Police Bureau staff member attending in the courtroom to update information directly onto the Crown Brief. (This is generally only the case in high volume courts, such as first appearance, guilty plea and bail courts.). In other locations, this updating is completed by crown staff, either in the courtroom as the court list is dealt with, or following court based on the court docket.

The Police Bureau in many courthouses also stores and maintains the Crown Briefs. In other locations, the Crown Brief is stored in the Crown Attorneys' office.

Notifying witnesses

Police Bureau staff may also be responsible for preparing subpoenas for police and civilian witnesses required to testify in a case in the Ontario Court of Justice. This includes preparing the subpoenas, ensuring they are properly served, and following-up where service cannot be made.

Supporting the Crown in the courtroom

As noted above, in some locations Police Bureau staff accompany the Crown Attorney in the courtroom and provide a range of administrative assistance to the Crown. This could include retrieving the Crown Briefs required for court from the filing system, updating the briefs as cases are dealt with in court, ensuring briefs are returned to the filing system following court, calling prisoners to be delivered to the courtroom from the holding cells, referring accused persons to duty counsel, accepting letters from counsel requesting adjournments, providing disclosure in the courtroom, following-up on missing briefs or materials for a brief and preparing notices for witnesses.

The key Police Bureau functions arising from a

conviction and sentencing are the updating of the Canadian Police Information Centre data base and the local automated system, and in some locations, notification to victims of domestic assault of bail conditions granted by the court.

2.2.1.6 Social agencies

A variety of social agencies help litigants involved in court actions, many with respect to criminal matters. As there has been an increasing emphasis on diverting certain types of offenders out of the traditional adversarial criminal court process, community-based agencies and programs have been developed to promote treatment of underlying issues that may contribute to people committing criminal offences.

Organizations such as The Elizabeth Fry Society, The John Howard Society and the Salvation Army provide a variety of court support programs for people involved in the criminal and family justice systems, including information and referrals to community services, lawyer referrals, assistance with legal aid applications and court diversion programs. There are also local victims' services groups to provide support to victims of crime. The federal government recently increased funding to support Mental Health Court Workers in many communities, to provide appropriate diversion alternatives to the traditional criminal process by focusing on services and supports to assist individuals with mental health issues. Native Court Workers programs are also in place in many court locations, to facilitate access to justice for aboriginal people by assisting them to understand their rights, responsibilities and options to obtain fair and culturally sensitive treatment.

Most of these social agencies have permanent or temporary office space outside the courthouse. However, they do

request day-office space in the courthouse itself, usually for the purpose of meeting with clients and providing a point of access to their services for people attending court. Day-office space in the courthouse is often shared by many agencies and, where possible, access is provided to telephones and such office equipment as fax machines and photocopiers.

2.3 The current policy framework for courthouse planning

2.3.1 MAG courthouse planning documents

The Ministry of the Attorney General has commissioned a large number of studies over the last decade to enhance the quality of courthouse construction and renewal planning. Much of this work culminated in the publication of the Courthouse Planning Handbook.³

Interestingly, in 2000, the Facilities Management Branch of the MAG created a draft document entitled "Courthouse Planning Handbook, Volume 1," which outlined two models for courthouses: Consolidated and Partnership. This draft document had never received policy approval.

The consolidated model was seen to have all court functions consolidated under one roof. The benefits would stem largely from increasing quality of service to the public through the ease of doing business in one location. Greater economies of scale would be realized. There would be increased efficiencies for all partners included in the consolidated courthouse. This model, as it was written in 2000, assumed the occupancy model to include the judiciary, the court administration function, the police, and the Crown Attorney function.

The second model, named the Partnership model, was premised on the notion of delineating core from non-core functions. The core functions would reside in the main

³*Court House Planning Handbook*, Volume I, Facilities Management Services Branch, Ministry of the Attorney General, July 2000.

adjudicative building, and the non-core functions would be housed in an adjoining building that might house other community functions as well. It was argued that this model might yield greater flexibility for future growth needs, would be amenable to alternative financing arrangements, and would enhance economic development in the community. The core and non-core functions were conceived as follows:⁴

POTENTIAL CORE FUNCTIONS	POTENTIAL NON-CORE FUNCTIONS
<ul style="list-style-type: none"> • Courtrooms • Motions/interview/pre-trial/mediation rooms • Public and Victim waiting areas • Counter areas • Judiciary • Court staff • Agency representatives • Police services – security and prisoner transportation • Holding area • Building services 	<ul style="list-style-type: none"> • Crown Attorney's Office • Probation and Parole • Court Liaison for youth • Duty Counsel • Court staff • Police • Other public agencies <ul style="list-style-type: none"> ▫ Legal Aid ▫ Children's Aid ▫ Salvation Army

It is instructive to note that the draft report states that the future success of the partnership model is contingent upon the delineation of core and non-core functions; “how clearly security and adjacency issues can be separated in discussions with all future constituents and users of the facilities complex; and how clearly the requirements of the functional units or purpose-built and general purpose space can be defined.”⁵

The report also outlines four planning priorities:

- Image
- Service to the public
- Security
- Functionality

In September 2005, the Facilities Management Branch released a study entitled “Metro Toronto Courts Study: Volume One, Phase Two – Development of a Facilities Study.”⁶ In this study, reference was made to a considerable number of facilities-related studies pertaining to Metropolitan Toronto.

The Metro Toronto Courts study⁷ relied upon the findings of the **Service Delivery Areas Study, 1993**. Four objectives were drawn from the 1993 study:

1. Achieve appropriate balance between quality of justice, customer service and cost-effective use of scarce public resources.
2. Improve quality of justice:
 - Sufficient personnel and facilities resources available to undertake necessary court activities
 - Facilities arranged and located in a manner to enhance consistency and fairness of decision-making
 - Reduction in unwarranted delays
 - Improved openness of decision-making to ensure that justice is seen to be done
3. Maintain or improve customer service:
 - Improved accessibility to court services for users
 - Appropriate space and working environments for judiciary, bar, staff and those to be served by the courts
 - Sensitivity to varied and special requirements
4. Use scarce public resources more cost effectively:
 - Availability of appropriate equipment and technology to enable cost-effective operations and planning
 - Availability of appropriate skills and training to enable cost-effective operations and planning
 - Conservation of scarce public resources

⁴ Court House Planning Handbook, page 6.
 Court House Planning Handbook, page 8.
 Metro Toronto Courts Study, Volume One, Phase Two- Development of a Facilities Strategy. Ventin Group Architects.
 Service Delivery Areas, Ministry of the Attorney General, June 15, 1993.

This relatively recent document, while not officially sanctioned as a policy document, is helpful insofar as a set of desired objectives is made plain. However, existing assumptions underlying current occupancy patterns are not examined.

2.3.2 Architectural Design Standards

The Ministry of the Attorney General has expended a great deal of energy in partnership with the judiciary to develop The Province of Ontario Architectural Design Standards (ADS) for Court Houses. This document was originally created in 1991, with improvements made in 1993 and additional revisions approved in 1999. The ADS spell out a series of design considerations that might be considered operational principles:

- Human scale
 - Projection of dignity while being inviting and friendly
- Spatial perception
 - Visitors and staff should perceive and recognize the various parts of the building with ease
- Flexibility
- Public use
 - The primary public users are the witnesses, jurors, litigants and victim's services together with other members of the public
- Impact on Community
 - Community should be proud of the edifice
- Image
- Efficiency
- Circulation
- Accessibility
- Independence of the Courts
 - The independence of the courts should be reflected in the planning of the building where possible.
 - The location of the police and their very limited accessibility to administrative areas are also important factors in preserving the public's perception of independence.

The Architectural Design Standards provide a basic set of operating guidelines for courthouse design, however, on broader policy matters like desired occupancy models, the ADS revert to the common practices. The introduction to the ADS notes that "these standards must always be read in the context of the functional programs produced for each project." There appears to be a gap in providing policy prescriptions that would guide functional programming for courthouses in conjunction with the ADS.

The Government of Ontario, in its materials published in May 2005, on public infrastructure renewal, states that:

“Ontario’s infrastructure needs to be renewed. Ontario’s infrastructure deficit is estimated to exceed \$100 billion and the Ontario government simply does not have the resources required to finance and build large public infrastructure, such as hospitals and courthouses, as quickly and readily as everyone would like... the government has determined that Alternative Financing and Procurement (AFP) will allow Ontario to finance and implement large infrastructure projects better and sooner, without tying up public funds that can be used for other purposes.”⁸

The framework for such infrastructure renewal is to be guided by five principles:

- The public interest is paramount
- Value for money must be demonstrable
- Appropriate public control/ownership must be preserved
- Accountability must be maintained
- Processes must be fair, transparent and efficient

Summary

In the years since the 1987 publication of Mr. Justice Zuber’s report on the organization, jurisdiction and structure of the courts of Ontario, the Ministry of the Attorney General has sought to set out some governing principles regarding courthouse construction. Great advances have been made in terms of setting out standards and initiating planning studies crucial to the ongoing planning requirements for new court construction and facilities renewal initiatives.

The Facilities Management Branch and the Ontario Realty Corporation, the ultimate overseer of projects, are initiating a number of new customer service initiatives. However, it is the view of the vast majority of participants in this study, that notwithstanding these improvements, more policy prescription is still required.

The central agencies are not so much focused on the issues of functional design and occupancy models as they are their core businesses- the securing of financing and the ultimate oversight over the construction of projects ratified by Cabinet. Their principles assume open, transparent and accountable processes. From their perspective, it is the line Ministry that needs to be responsible for what gets built.

⁸ Alternative Financing and Procurement, http://www.pir.gov.on.ca/userfiles/HTML/cma_4_42522_1.html

3

HISTORICAL REVIEW

3.1 History of courthouses in Ontario

In order to fully appreciate the current challenges in designing, constructing and maintaining courthouses in Ontario, it is helpful to understand the evolving role of and responsibility for courthouses here since pre-Confederation. The provision of court facilities in Ontario in many ways mirrors overall reforms to the justice system since the inception of colonization in Canada. Given that several of the courthouses still in use today were constructed more than 50 years ago, it becomes apparent that while these buildings were originally designed and constructed to serve the core functions of a courthouse, their overall role in the civic life of a community was very different from that performed by modern-day courthouses.

When the colony of New France became British North America in 1763, the British government was faced with the challenge of providing courts to ensure law and order for a vast territory with a very sparse but concentrated population. The priority of the courts in these early years was the protection of property rights and the application of criminal law. Justices of the Peace, usually the most notable landowners of the time, exercised broad powers on behalf of the Crown and proceedings were convened in a few centers, usually in the home of a local official, the town hall or a tavern.

As the colony flourished, the economy expanded and communities sprang-up farther south and west along the St. Lawrence River and into the Great Lakes Region. The Constitution Act was passed in 1791, creating Upper Canada and Lower Canada. A year later, a bill was

passed in the new Province of Upper Canada requiring a courthouse to be built in each of the four districts Eastern, Home, Midland and Western.

Construction of these early courthouses was funded and controlled by district magistrates and select committees of prominent citizens. They were usually constructed along major waterways, such as the St. Lawrence and the Welland Canal, and because design and construction represented a significant investment for a local community, courthouses were often combined with other civic functions, such as council chambers and committee meeting rooms. The scale and grandeur of a courthouse became directly related to the importance and wealth of the county. These early courthouses contributed to creating the heart of many towns and cities across the province.

As the population and economic prosperity of Upper Canada grew, the number of original districts was expanded and additional courthouses were built. At the same time, the structure of the courts evolved to reflect the increased “demand” for justice services in the new and expanding communities. In 1840, the Province of Canada was created and the *District Councils Act* passed two years later, formally separating judicial administration from civil administration. Despite this, most communities continued to combine justice and civic functions in a shared courthouse building.

The *Municipal Act* in 1850 increased the powers given to county governments, and subsequently many counties built even grander courthouses encompassing many civic

functions. As one study has noted, courthouses built during this time represented significant community buildings for a city or town and “related directly to the social, economic and cultural conditions of (the) community”.¹ The layout of the courthouse followed the traditional plan in which the courtroom was located on the second floor away from the daily traffic and administration offices were situated on the ground floor. Non-government groups were also allowed to rent space in the courthouse.

The *British North America Act* of 1867 set out the division of powers between the federal and provincial governments and, among other things, assigned responsibility for the administration of justice to the provinces. The burden of financing, planning and building new courthouses continued to rest with the counties. During the late 1800s until the mid 1900s, the use of police magistrates moved the hearing of most minor criminal offences out of the county courthouses and into local police stations.

In the early 1900s, the emphasis of courts shifted from property rights and crime to the growing concern with social issues, including “juvenile delinquency,” family matters and the resolution of small monetary claims. The post-war increase of urbanization placed increased demands on local governments to deliver a wide variety of services. A new level of regional municipal government was developed in the 1950s to respond to the need to supply these urban services over larger areas, and new judicial districts were created to replace the outdated county lines.

During the early to mid-1900s, courthouses were expanded primarily through additions to existing buildings rather than construction of new buildings. Moving into the post-war period, the increasing specialization in the delivery of justice services led to a reduced use of the courthouse for civic functions. This in turn led to the diminished capacity of

courthouses to remain civic centres. Concerns about adequate parking, accessibility to public transportation and proximity to lawyers’ offices and the city business centre were reflected in the enhancements made to courthouses during this period. An enduring theme, however, continued to emphasize the requirement that courthouse design “reflect repose and dignity and contribute to civic pride.”²

In 1968, with the passing of the *Administration of Justice Act*, the province assumed full responsibility for the construction and upkeep of all courthouses. A provincial superior court of justice – the District Court of Ontario – had been created the previous year to establish a single court jurisdiction across the province to replace the previously independent county courts. The province acquired responsibility for a total of 150 public buildings from local governments in 1968 (including courthouses, jails and land registry buildings). Most of the courthouses were in excellent repair but required upgrades to meet increased case load demands and resolve accessibility issues.

The province built some new courthouses in the 1960s and 1970s but most of the effort was dedicated to upgrading existing buildings. Several of the province’s grand historic courthouses were converted to museums or municipal buildings during this time, even though the county courthouses were still considered extremely important community landmarks, providing status and defining the civic centre for many cities and towns.

Following a year-long assessment of all existing provincial courthouses, in 1987 the Ministry of the Attorney General presented a prioritized plan for building and renovating court facilities. In 1999, the government allocated \$265 million to renovate

¹ *Phase I Evaluation of Courthouses*. Registry Offices and Correctional Facilities, Ontario Realty Corporation. April 2005, 11.

² *Phase I Evaluation of Courthouses*. Registry Offices and Correctional Facilities, Ontario Realty Corporation. April 2005, 25.

or build new courthouses, including new consolidated facilities in large urban centres such as Brampton and Hamilton. During the end of the twentieth century, the province worked to consolidate as many branches of the court system as possible into single facilities. Consolidation was viewed as both a cost-saving measure and a service initiative, providing a single building to deliver the full range of justice services for citizens. The preoccupation during this period was ensuring accessibility to the court system and providing adequate security for the judiciary, counsel, witnesses, victims and other court users. It should also be noted that there was not complete consensus with respect to the treatment of specialized courts such as the Unified Family Court.

3.2 Changing architectural approaches

The architectural approaches to courthouses in Ontario over the last two centuries reflect the changing role of the courthouse in the community. In the early 1800s, when court proceedings were often heard in local schools and town halls, newly constructed court facilities were generally simple wooden structures with a straightforward layout. As the Canadas expanded and prospered in the first half of the nineteenth century, and as courthouses began to



denote civic spaces in a community, the architecture reflected increasing complexity, often in the Neo-classical style. Many courthouses constructed during this period were monumental, and included intricate and elaborate details. In an effort to confirm the colony's English connections, Regency and Victorian architectural elements were often incorporated into courthouse design. These elaborate architectural styles continued into the last half of the century, with the construction of grand courthouses such as the Toronto City Hall and Courthouse, a monolithic stone structure in the Richardson Romanesque style including massive stone masonry, rounded arches and stubby columns.

As noted above, few new courthouses were built in the first half of the 20th century as most counties opted to expand existing facilities rather than incur the costs of a new building. During the 1950s and 1960s, two purpose-built courthouses were constructed in Toronto, reflecting the shift toward dedicated courthouse facilities. Neither the Toronto Juvenile and Family Court at 311 Jarvis Street nor the Toronto Metro Court at 361 University Avenue has been lauded for its architectural features, although the Jarvis Street courthouse was praised for its internal landscaped courtyards, which were intended to create a calming environment for the special needs associated with family and youth justice. As one observer has commented, "the architecture sends out a clear signal that yes, you're disenfranchised. It tells you you're at the bottom of the totem pole."³

In the last half of the twentieth century, then, the architecture of courthouses was seen to have lost its ability to reflect the importance and dignity of the work of the courts. Particularly in rapidly expanding urban areas, many court facilities were housed in leased space in shopping malls. While some observers insist that these facilities are "functional," others note that their inconvenient location and poor quality affect

the public's perception of justice and send a signal to all who enter, particularly accused persons, that they are disenfranchised.

Several new consolidated courthouses have been built in the last ten years, with the architecture generally reflecting the need for quality of space and functionality, rather than the beauty of detail. As the courthouse is construed more as a special-purpose facility to deliver justice than as a civic landmark reflecting the heart of a community, the architecture of these facilities addresses the issues of accessibility and functionality rather than the creation of a primary landmark of a civic centre.

3.3 Legislative, regulatory, policy and program changes

While the fundamental role of the courts in Ontario has remained constant, the environment within which justice is delivered has changed to reflect shifts in societal priorities, both economic and political.

As noted earlier in this chapter, following Confederation, courts were primarily concerned with property disputes and criminal matters. As the new federation developed and prospered, laws and social policy became more focused on commercial litigation, family issues, and the creation of a "social safety net."

Successive changes to the legal, regulatory, and policy framework of the justice system created ongoing pressures and demands on the facilities required to deliver court services. While the core features of a courthouse – courtrooms, judicial offices, space for administration offices – are easily identified, the requirement to accommodate an increasing number and variety of new programs – whether mandated by

³ Hume Christopher, *Court design a crime*, The Toronto Star, March 13th, 2004.

law or reflecting the government of the day's policy agenda – has created a crisis in many aging courthouses which were originally designed for smaller case loads and a more limited, “traditional” range of court services.

To further complicate the decision-making environment within the justice system, courthouses in Ontario are affected by legislative, regulatory and policy changes made by three levels of government (federal, provincial, and municipal). Only the federal government can legislate with respect to criminal matters, but changes made to criminal law statutes often have a significant impact on the amount or type of space required in a courthouse. The federal government also plays a key role in the expansion of the Superior Court – Family Branch or Unified Family Court model in Ontario, in that the judges of this court are federally appointed.

Provincial statutes and regulations most often have the largest impact on the use of courthouses, and not only those sponsored by the Ministry of the Attorney General, which is responsible for the administration of justice in the province. Decisions made by other provincial ministries often have impacts on the use of space in a courthouse and, all too often, those impacts are not identified as a component of program planning or funding. This interdependency of decision-making with other provincial ministries was apparent in the move by the then Ministry of the Solicitor General in the mid-1990s to replace a number of aging local and regional correctional centres with consolidated, large “super jails.” The impact of this decision with respect to transporting in-custody accused to and from court appears not to have been fully considered at the time. As a result, many courts in the past five years report delays in proceedings due to difficulties in the transportation of prisoners from the correctional facility to the courthouse. Similarly, a decision by the then Ministry of Community and Social Services in the late 1990s to improve responsiveness to child protection matters included more than 500 million additional dollars for Children's

Aid Societies across the province. Over a three-year period, these funds were primarily used to hire additional caseworkers, which in turn led to more child protection cases being filed with the court and increased pressure on existing judges, courtrooms and staff to process these matters.

Municipalities make policy decisions which have a direct impact on courthouses when local police service boards decide to increase the number of officers laying criminal charges, or change charging practices resulting in more charges being laid.

Of course, some legislative changes will have a more significant impact on the use of courthouse space than others. Table 2 identifies some of the key events over the past twenty-five years that have affected the operation and design of courthouses in Ontario. The chart includes program and policy changes, changes to legislation, regulation and significant case law developments, and major facilities projects undertaken in Ontario during this time period.

A review of this brief history of policy and programmatic change demonstrates the remarkable pressures that have been placed on the existing physical infrastructure that supports the court system in Ontario. Many of the changes and programmatic developments have served primarily to alter the number of cases dealt with by the courts and the amount of time required to deal with an individual matter. It has been argued that successive impaired driving and domestic violence initiatives that began in the mid-1980s have increased the criminal case loads, particularly in urban courts. The Charter of Rights and Freedoms is often identified as the cause for more complex litigation dealt with by the courts, resulting in a lengthier time to dispose of cases. Conversely, No-Fault Insurance legislation in the early 1990s caused a significant drop in the number of motor vehicle cases before the courts, and the Tenant Protection Act in 1997 diverted the high volume of

TABLE 2*

CHRONOLOGY OF KEY EVENTS IN ONTARIO COURTS, 1980 TO 2005

YEAR	PROGRAM & POLICY	LEGAL, STATUTE, RULE, CASE LAW	FACILITIES PROJECTS	OTHER
1982		<ul style="list-style-type: none"> • <i>Canadian Charter of Rights and Freedoms</i> 		
1984		<ul style="list-style-type: none"> • <i>Child and Family Services Act</i> 		
1985	<ul style="list-style-type: none"> • Impaired driving - Crown policy initiatives • Domestic violence - Crown policy initiatives 	<ul style="list-style-type: none"> • <i>Family Law Act</i> • <i>Young Offenders Act</i> • <i>Courts of Justice Act</i> • Rules of Civil Procedure 		
1986		<ul style="list-style-type: none"> • <i>Support and Custody Orders Enforcement Act</i> 	<ul style="list-style-type: none"> • Ottawa Courthouse opens 	
1987	<ul style="list-style-type: none"> • Report of the Ontario Courts Inquiry (the Zuber Report) • First ten V/WAP program offices opened 			
1988	<ul style="list-style-type: none"> • Court reform delay reduction initiative 		<ul style="list-style-type: none"> • MAG provincial review of court facilities 	
1989	<ul style="list-style-type: none"> • Merger of courts • Regionalization • Writ system 	<ul style="list-style-type: none"> • Civil and Family Case Management Rules implemented in Essex and Algoma • Criminal code amended to establish victim fine surcharges and allow victim's input to sentencing 		
1990	<ul style="list-style-type: none"> • Centralized jury implementation 	<ul style="list-style-type: none"> • Civil and Family Case Management Rules implemented in Toronto • <i>Police Services Act</i> amendments re: responsibility for court security • Askov decision re: criminal delay 		<ul style="list-style-type: none"> • Regional offices established • Program Development Branch established
1991	<ul style="list-style-type: none"> • Investment strategy 	<ul style="list-style-type: none"> • No-fault insurance 		<ul style="list-style-type: none"> • ICON implementation completed
1992	<ul style="list-style-type: none"> • Martin Report 	<ul style="list-style-type: none"> • Small Claims Court monetary limit increased to \$3,000 		
1993	<ul style="list-style-type: none"> • Small Claims Court (SCC) staff, enforcement officers and court reporters converted to civil servants 	<ul style="list-style-type: none"> • Small Claims Court monetary limit increased to \$6,000 		
1994		<ul style="list-style-type: none"> • Photo radar 		
1995	<ul style="list-style-type: none"> • Unified Family Court (UFC) expansion to five courts (Hamilton, London, Barrie, Kingston, Napanee) • Civil Justice Review, 1st Report 	<ul style="list-style-type: none"> • Criminal Code sentencing amendments • <i>Contraventions Act</i> 		
1996	<ul style="list-style-type: none"> • Civil Justice Review, 2nd Report • Integrated Justice Project (IJP) started • V/WAP expansion to 16 additional court jurisdictions • Criminal code of Canada amended to make court consideration of victim impact statements mandatory 	<ul style="list-style-type: none"> • Toronto Ontario Court of Justice (OCJ), Family, expands to 100 per cent case management • Rule 76 (Simplified Procedure) pilot introduced for cases up to \$25,000 • Rules of Civil Procedure • Ontario Victims Bill of Rights proclaimed • Criminal Code of Canada amended to make court consideration of victim impact statements mandatory 	<ul style="list-style-type: none"> • Move into Windsor OCJ courthouse 	

* Information provided by various divisions of MAG

TABLE 2

CHRONOLOGY OF KEY EVENTS IN ONTARIO COURTS, 1980 TO 2005

YEAR	PROGRAM & POLICY	LEGAL, STATUTE, RULE, CASE LAW	FACILITIES PROJECTS	OTHER
1997	<ul style="list-style-type: none"> Domestic Violence Courts pilot projects 	<ul style="list-style-type: none"> Rules of Civil Procedure Child support guidelines E-Filing Rules, Civil Case Management (Rule 77), introduced in Toronto (25 per cent) and Ottawa (100 per cent) Tenant Protection Act 	<ul style="list-style-type: none"> Consolidation to 393 University Avenue for Toronto non-criminal matters 	
1998	<ul style="list-style-type: none"> Provincial Offences Act (POA) transfer begins May-Iles inquest recommendations Criminal Code of Canada amendments to allow videotaped testimony for child and disabled victims 	<ul style="list-style-type: none"> SCC Rule Amendments 	<ul style="list-style-type: none"> Newmarket Courthouse mould discovered Cornwall Courthouse opens 	
1999	<ul style="list-style-type: none"> Criminal Justice Review (Campbell Report) Expansion of Family Branch to 12 additional locations Over \$500 million in new funding allocated to Children's Aid Societies over a three-year period Criminal Code of Canada amendments to further strengthen/promote use of Victim Impact Statements 	<ul style="list-style-type: none"> Courts Improvement Act New Family Law Rules -- Civil Mandatory Mediation (R. 24.1) introduced as pilot in civil, case managed cases in Toronto and Ottawa 	<ul style="list-style-type: none"> Hamilton Courthouse opens Windsor Courthouse opens Welland Courthouse retrofit 	
2000	<ul style="list-style-type: none"> Victim's Justice Action Plan announced 		<ul style="list-style-type: none"> Brampton Courthouse opens 	
2001	<ul style="list-style-type: none"> POA transfer ends Ontario Victim Services Secretariat established Ontario Court criminal blitz initiatives begin V/WAP province-wide expansion begins 	<ul style="list-style-type: none"> Rule 76 (Simplified Procedure) made permanent (January, 2001); monetary limit increased to \$50,000 Civil mandatory mediation (R. 24.1) made permanent in Toronto and Ottawa SCC Monetary limit increased to \$10,000 Civil Case Management (Rule 77) goes to 100 per cent in Toronto Criminal Code amendments to accommodate remote appearances 	<ul style="list-style-type: none"> Approval of updated MAG Architectural Design Standards 	<ul style="list-style-type: none"> Super jails
2002	<ul style="list-style-type: none"> IJP Terminated Civil Case Management and mandatory mediation expanded to Windsor (December, 2002) Hadley inquest recommendations Bail project pilots 	<ul style="list-style-type: none"> Interjurisdictional Support Orders Act (ISOA) Civil mandatory mediation (R. 24.1) made permanent in Windsor 		
2003		<ul style="list-style-type: none"> Youth Criminal Justice Act 	<ul style="list-style-type: none"> Owen Sound Courthouse opens Chatham Courthouse opens 2201 Finch/Toronto courthouse opens 	<ul style="list-style-type: none"> Implementation of FRANK case-tracking software application begins
2004	<ul style="list-style-type: none"> Justice Delay Reduction Initiative Family Law Information Centres (FLICs) expanded to all family courts Tape storage policy for court reporting implemented 	<ul style="list-style-type: none"> Family law rules expansion to SCJ 	<ul style="list-style-type: none"> Brockville courthouse retrofit 	
2005		<ul style="list-style-type: none"> Fee Waiver 	<ul style="list-style-type: none"> New five-year capital infrastructure planning process launched 	<ul style="list-style-type: none"> Implementation of FRANK case-tracking software application completed
2006	<ul style="list-style-type: none"> V/WAP province-wide expansion completed 	<ul style="list-style-type: none"> Criminal code amendments to expand use of testimonial aids beyond children/handicapped to other vulnerable witnesses 		

landlord and tenant matters away from the courthouses, as did the transfer of most Provincial Offences matters to municipal governments, commencing in 1998. The implementation in the early 1990s of a variety of case management techniques, including mediation, was designed to reduce the amount of time required to hear many types of civil and family cases.

While changes affecting the operation and length of cases before the courts most often impact the number of courtrooms and judges' offices required or the amount of administration areas needed, changes impacting the type of space provided in courthouses and the adjacencies between different program areas have often created more significant pressures, particularly on the non-courtroom spaces of Ontario's courthouses.

Examples of changes that have impacted the type of space required in a courthouse today in Ontario are numerous. In 1985, the federal government enacted the *Young Offenders Act*, mandating – among other things – the requirement that young offenders be physically separated from adult offenders at all times during the court process. This led to a requirement to reconfigure many courthouse holding cell areas, in order to provide separate cells for male and female young offenders. In 1987, the Victim/Witness Assistance Program (V/WAP) program was piloted in ten courthouses, and subsequently expanded to fifty-five court sites by 2005. V/WAP required dedicated and segregated administration offices and waiting room space, both in close proximity to the Crown Attorney's Office. While this significant requirement has been incorporated as an essential design feature for any new courthouse construction, most of the V/WAPs were established in existing courthouse space, where appropriate adjacencies and available space were more challenging to identify.

In 1995, the federal and provincial governments agreed to implement the Unified Family Court (UFC) model in five court sites in Ontario – Hamilton, London, Barrie, Kingston, and Napanee. The UFC model included the provision of enhanced Family Court services in Ontario's courthouses, including a staffed Family Law Information Center (FLIC), and on-site mediation services. In addition to the re-configuration required to align former Provincial Court and General Division (as it was then called), family services and offices into a consolidated area, these five court locations were also required to identify space for the new program services, ideally all co-located within the courthouse. The UFC model was subsequently expanded to twelve additional courthouses in 1999, with plans to eventually implement this model for Family Courts province-wide.

The phenomenon of automation has also created pressures on courthouse space and infrastructure over the past twenty-five years. With the implementation of the Integrated Court Offences Network (ICON) between 1988 and 1991, courthouses were faced with the need to house terminals and printers and other technical devices in dedicated storage spaces in administration offices. In 1998, Desktop Computer Implementation (DCI) through the province required courthouses to identify suitable "server rooms," as well as cope with the ergonomic requirements of computers in offices and courtrooms.

4 BRAMPTON

4.1 History

Brampton courthouse construction process

As part of understanding the information flow required in the creation of a facility as complex as a courthouse, examinations of the Brampton, Hamilton and Ottawa consolidated courthouses were undertaken to gain insight into planning processes within the Ministry of the Attorney General (MAG), its stakeholders, the Cabinet decision-making process, and the political process.

The court system in Brampton, prior to the decision to build a new consolidated courthouse, operated with 22 courtrooms in six separate facilities throughout Brampton and Mississauga. Two of these facilities were government-owned. The others were in leased space, primarily in commercial buildings. This fragmented infrastructure created a series of inefficiencies that ultimately contributed to a criminal case delay crisis culminating in the 1990 Askov¹ Supreme Court decision. This decision, which was an appeal of a conviction from a trial in Brampton, held that the accused's Charter right to trial within a reasonable time had been denied. This was just one of a number of issues regarding the existing court facilities that had been identified throughout the 1980s and early 1990s, including numerous health and safety, security and overcrowding concerns. The Askov decision served as a final catalyst for approval to construct a consolidated courthouse in the Peel Region.

In 1991, under a New Democratic Party government, the Ministry of the Attorney General (MAG) submitted a capital proposal for the construction of five new courthouses - Brampton, Windsor, Hamilton, Cornwall, and Durham. This proposal was presented to the Management Board Secretariat and approval to proceed for \$365.7 million in current construction was granted. (This capital requirement was increased eventually to \$398 million.) The original Brampton Courthouse requirement was set at 45 courtrooms. That number was subsequently reduced to 39 courtrooms and \$122 million by Management Board of Cabinet (MBC).

In 1995, the four-year-old approved capital plan for five new consolidated courthouses was put on hold and the Ministry of the Attorney General was instructed to cut \$100 million from its capital program. The new overall capital budget was established at \$265.7 million following negotiations among Management Board, the Ontario Realty Corporation (ORC) and MAG. During this period \$32.4 million had already been spent on various design projects. The Brampton courthouse portion of this was \$5.2 million. The ORC was asked to redesign the Brampton Courthouse because only \$85 million, or 70 per cent of the \$122 million allocated originally was now available for this capital project.

In 1996, the ORC produced the new design for the downsized Brampton Courthouse and in 2000 the new Brampton facility was completed with 34 courtrooms and six motion rooms at a cost of \$85.5 million.

¹ Trial within a reasonable time. R v Askov (1990) 2 S.C.R. 1199.

4.2 Profile²

The City of Brampton is located within the Region of Peel. Peel's population in 2001 was 998,948. This represented a 16 per cent increase over 1996 compared to an increase of 6.1 per cent for the province as a whole. Additional data from the 2001 census include:

- Peel's population density per square kilometer was 796.3 compared with 12.6 for the province.
- The median age of Brampton's population was 34.4 years compared to the provincial median of 37.2.
- 28.8 per cent of Peel's population was 19 or younger compared to the provincial average of 26.3 per cent and close to 8 per cent of the population was older than 65 compared to the provincial average of 12.9 per cent.
- 42.5 per cent of Peel's population was foreign-born compared to the provincial average of 26.8 per cent; 89 per cent of Peel's foreign-born residents were members of visible minority groups; 41 per cent of the visible-minority residents self-identified as South Asian and 18.6 per cent as black; 16.1 per cent of Peel residents came to Canada between 1991 and 2001 as compared to the provincial average of 9 per cent.
- Average annual earnings for Peel were \$36,635 compared to the provincial average of \$35,185.
- Peel's unemployment rate in 2001 was 5.1 per cent compared to the provincial average of 6.1 per cent.
- 6.5 per cent of Peel's population received government transfers compared to a provincial average of 9.8 per cent.
- 14.3 per cent of Brampton's families were led by single parents compared to the provincial average of 15.2 per cent.

In summary, the Brampton area is densely populated and growing rapidly. The population is younger than the provincial average and composed of many recent immigrants, notably large numbers of South Asian and black people.

Salaries and payroll for the community are in line with the rest of the province and requirements for government assistance are relatively low.

4.3 Architectural assessment

4.3.1 Services and programs – current occupancy

As noted on page 60 of the Perkins Eastman Black architectural report, and verified by the respective court managers, the following services and programs are currently housed in the Brampton courthouse:

- Judicial offices
 - ◆ Superior Court of Justice
 - ◆ Ontario Court of Justice
 - ◆ Judges and justices of the peace
 - ◆ Superior Court of Justice Regional Senior Justice, Central West Region
- Adjudicative spaces (e.g. courtrooms, motion rooms and pre-trial/settlement conference rooms)
- Information desk
- Court Services
 - ◆ Managers of Court Operations
 - ◆ Main Administration and Filing Office
 - ◆ Trial Coordinators' offices
 - ◆ Court support offices, including clerks, reporters, interpreters and court services officers
- Crown Attorney's Office
- Victim/Witness Assistance Program
- Social agencies, including:
 - ◆ Peel Mental Health
 - ◆ Peel Mediation Services
 - ◆ Salvation Army
 - ◆ Elizabeth Fry Society
 - ◆ John Howard Society
 - ◆ Children's Aid Society
- Legal Aid Ontario Duty and Advice Counsel day offices

² All data in this profile are based on the 2001 census. *2001 Census of Canada*. Statistics Canada. <http://www12.statcan.ca/english/census01/home/index.cfm>

- Probation and Parole day offices
- Peel Law Association lounge, library and robing rooms
- Peel Regional Police Court Bureau
- Prisoner holding cells and related services
- Family Law Information Centre (FLIC)
- Building Services (ProFac)
- Federal Crown
- RCMP
- Cafeteria

4.3.2 Planned occupancy

As noted earlier, the scope of the plans for the Brampton Courthouse as set out originally in 1992 was reduced dramatically in the Design Build RFP issued in 1997.

In fact, the original plan included dedicated space for the Regional Directors of Courts Administration, the Crown Attorneys, and the Family Support Plan. These spaces were ultimately eliminated from the final plans and were located elsewhere. In addition, there were reductions in the original space allocated for the judiciary, courtrooms, Crown Attorneys, Probation and Parole, the court bureau, prisoner holding area and Court Services.

4.3.3 Architectural changes

In the time since the Brampton Courthouse opened in 2000, there have been significant program changes to the building. The most significant changes involve alterations to accommodate additional resources allocated through the Justice Delay Reduction Initiatives (JDRI). These alterations include:

- Refurbishment of two Courtrooms – all finishes, AV equipment, new prisoner boxes, card swipes, courtroom doors and crests.
- Construction of four interview rooms.
- Construction of a V/WAP waiting room.
- Refurbishment of two judicial retiring rooms.
- Refinishing of the public waiting area.
- Construction of public washrooms.

Other notable changes include: refinishing of judicial corridors, card swipes, interior changes to courts' administration space and day offices for social agencies, reconfiguration of the fifth floor Court Services area to address overcrowding, and changes to the sixth floor judicial areas to accommodate additional judges chambers and staff; Victim Witness relocation to the Land Registry Office building; and the development of a more robust Family Law Information Centre (FLIC).

4.3.4 Compliance with Architectural Design Standards

The Brampton Courthouse is an extremely efficient building and it is well within current industry standards. It generally meets the Architectural Design Standards for primary room dimensions, space standards and security requirements and is in general compliance with the current *Ontarians With Disabilities Act* (ODA).

4.4 Public access to service

4.4.1 Public transportation

Although local municipal bus service to the courthouse is available, it is difficult for people outside Brampton to reach the building by public transportation and a limited number of users arrive that way.

4.4.2 Parking

Convenient public parking on-site is available for 1,008 vehicles. A further 60 parking spaces are provided below grade for the judiciary and other staff. Both the building and the public parking lot are large. As a result, the walking distances from the parking lot to the courthouse are often seen as onerous by some of the public.

4.4.3 Access to building

The main building entrance does not provide enough space for security screening and queuing, resulting in long line-ups, often outside the building and without protection of cover. There is provision for vehicular drop-off. The main entrance is accessed from the parking area and most users arrive by car.



4.5 Court activity

Most court activity in the Region of Peel takes place in the consolidated courthouse at 7765 Hurontario Street in Brampton. Some courtrooms and support services are situated in the nearby “overflow” building at 7755 Hurontario Street and there are also two separate municipal courthouses, operated by the cities of Brampton and Mississauga, to process provincial offences matters in those cities.

Brampton, typically characterized as the busiest court location in Ontario outside Toronto, has been tackling significant criminal backlog and delay issues for more than two decades. (It is the originating jurisdiction for the Supreme Court of Canada’s 1990 Askov decision relating to delays in the administration of justice that are so extensive that they violate a person’s

Charter rights. The Supreme Court characterized the criminal courts in Brampton as the “slowest north of the Rio Grande.”)

In 2003, Brampton was one of the criminal backlog courts targeted for special assistance in the Justice Delay Reduction Initiative (JDRI). As a result, three additional Ontario Court criminal judges, 3.5 V/WAP staff, 28 Court Services staff, 8.5 crowns, three case management coordinators and two legal secretaries were appointed there to tackle the backlog of criminal cases.

Brampton is not a Superior Court of Justice Family Court branch location. Therefore, some family matters are heard in the Ontario Court of Justice and some are heard in the Superior Court of Justice (e.g. divorce and division of property cases). Brampton

is also unique in that any charges laid at Pearson International Airport are processed in the Brampton courthouse.

The following table provides a snapshot of Brampton Courthouse activity from January 1, 2000 – December 31, 2004. It indicates that there was a steady increase (20 per cent) in overall case load during the period (including a 51 per cent rise in SCJ criminal cases), large increases in events heard (48 per cent, including 72 per cent in SCJ family cases), courtroom hours (41.6 per cent, including 1662 per cent in SCJ family cases) and events disposed (39 per cent). The increase in the number of cases disposed was offset by a 38.8 per cent increase in the number of cases pending, suggesting that the court is in a stable state and not reducing its net number of pending cases.

CASE FLOW, BRAMPTON, 2000-2004

TABLE 3*

	SUPERIOR COURT				ONTARIO COURT		TOTAL
	CRIMINAL	CIVIL	SMALL CLAIMS	FAMILY	CRIMINAL	FAMILY	
New cases							
2004	428	6972	5719	3658	37,320	1831	55,928
2000	238	5786	3931	2509	32,520	1602	46,586
% Change	51.2%	20.5%	45.5%	45.8%	14.8%	14.3%	20%
Events heard							
2004	3335	5746	5394	5956	335,717	1703	357,851
2000	2109	6060	2639	3461	226,174	1080	241,523
% Change	58.1%	-5.2%	104.4%	72.1%	48.4%	57.7%	48.1%
Courtroom hours							
2004	6312	3818	2088	1164	24,224	4257	41,862
2000	3972	2724	2321	70	14,928	2989	29,570
% Change	58.9%	40.2%	-10.0%	1662.8%	39%	42.4%	41.6%
Average time per event (2004)	113.5 min.	39.9 min.	23.3 min.	11.6 min.	3.7 min.	150 min.	6.4 min.
Disposed							
2004	370	N/A ³	N/A	N/A	38,192	N/A	38,562
2000	322	N/A	N/A	N/A	28,478	N/A	28,800
% Change	14.9%	N/A	N/A	N/A	34.1%		39%
Pending							
Pending – 2004	303	N/A	N/A	N/A	20,632		20,935
Pending – 2000	159	N/A	N/A	N/A	14,928	N/A	15,087
% Change	90.6%	N/A	N/A	N/A	38%		38.8%

³ Not available.

* Date provided by the Statistical Planning and Information Unit, Court Services Division, Ministry of the Attorney General.

4.6 Key themes/perceptions from local participant consultations

The steering committee for this study directed the principal researcher to meet with the judiciary at both the beginning and end of each site consultation, and to engage in discussions with all appropriate stakeholders. The consultations were frank and wide-ranging, with strong opinions offered on functionality, planning and the policy underpinnings of a model courthouse. Six themes emerged.

Theme #1: Need for a Vision

The Judiciary

The judges of both the Superior and Ontario Courts of Justice in the Brampton Courthouse expressed the view that there is no principle-based vision that directs the capital planning process for courthouses. Put another way, the judges felt that there ought to be a clearly articulated vision that prescribes when and where consolidated courts are built, who the occupants ought to be, and which adjacencies are crucial to functionality. Moreover, in the view of the judiciary, the public is the ultimate user. Acknowledging the public as the ultimate user would result in different approaches to planning, and new approaches to layout, design and adjacencies. There was considerable discussion about the locus of responsibility for the development of the vision. Many judges held the view that it is the responsibility of the Attorney General, with considerable input from the judiciary, to develop such a principle-based vision.

All judges and stakeholders commented on the significant improvement in the dispensing of justice as a result of the consolidation of the two courts. Judges, while supportive of the consolidated model, referred to under-resourcing, inadequate space, and the particular issues associated with proximity to a 'Super Jail' and the concomitant problems associated with prisoner transportation. Some queried whether there was an optimal size, or "tipping point" for a courthouse. The question of consolidation, or "model" of courthouse, was inextricably linked to the question of occupancy. When there is a strongly perceived sense that space is inadequate for current occupants, the justices argued, there must be a consensus about which core functions ought to be located in a courthouse to support the adjudication function. Not surprisingly, in light of their comments about the necessity for a clearly articulated vision, they argued that the Attorney General needed to determine a principle-based occupancy model.

Theme #2: Need for an Occupancy Model

All participants spoke passionately about the need for a policy on the occupancy model for a courthouse. Not surprisingly, there are differing opinions about core functions, or put another way, who the sole occupants ought to be.

The Judiciary

The judiciary argued that, in a perfect world, all judicial functions, including provincial offences, ought to be included in a consolidated courthouse. This “ideal model” is not in place in Brampton, where *Provincial Offences Act* matters are heard in a separate building operated by the municipality. The justices of the peace strongly support the view that all business lines, including provincial offences, ought to be co-located.

There was no consensus among judicial participants regarding the ideal placement of the Family Court. Economies of scope and scale would likely ensue if prospectively the Family Court were to be co-located with the other courts. On the other hand, the particular adjacency needs, the client requirements, and the sensitivities around children and families are such that they might be better handled in a separate setting.

Some of the judges who were interviewed suggested that it is awkward for Ministry of the Attorney General (MAG) staff to be making post-occupancy decisions about space given that MAG is a primary litigant, and hence, conflicted. Members of the judiciary went on to suggest that the Crown Attorney function need not have permanent space in the courthouse. This view was expressed as a matter of fairness between the public and private bars, and the frank recognition of the cost of limited courthouse space.

In addition, they did not necessarily support the inclusion of the Police Bureau in a courthouse. Judges were well aware of operational linkages between the crowns and police, but argued that such matters could be addressed through other occupancy models.

The justices also felt that inadequate space existed for the justices of the peace, and that no clear policy existed for the occupancy requirements of the justices of the peace.

Provincial Crown Attorneys

The view of the Crown Attorneys regarding courthouse occupancy is that the integrity of the Crown Prosecutor function requires placement in the courthouse. Further, given the close linkages between the Police Bureau and the Crown Attorney’s Office regarding the Crown Brief, the Police Bureau needs to be in the facility.

Private Bar

Members of the private bar believe that law libraries and lawyers’ lounges ought to be key features of any courthouse. In particular, the issue of space allocated to the private bar in Brampton ought not to be questioned. The argument is based on the notion that a great deal of crucial case-related interaction occurs in the lounge and that the private bar must be able to respond to queries put to them by the judiciary in a speedy and efficacious manner.

The private bar expresses the view that more police ought to reside in the courthouse in order to expedite adjudication. Conversely, they expressed the view that Crown Attorneys, as major litigants, ought not to be located in a courthouse. A corollary to this argument is

Theme 4.2 Need for an Occupancy Model

the position that MAG ought not to be in a position to make decisions about space as it is a primary litigant. In this vein, lawyers argue for “a de-politicized decision-making process” about occupancy in a courthouse.

Court Managers

Managers and supervisors in the Brampton Courthouse observed that the courthouse was too small from the day it opened. The resulting space pressures highlighted the absence of a policy framework by which to prioritize and address legitimate claims for additional space.

Given the high demand and the nature of the caseload, they also observed that the courtrooms are too small to accommodate multi-accused, multi-lingual needs. The absence of a policy protocol combined with an acute shortage of space as articulated by current users and tenants, place a burden on court managers who do not believe they have the authority or the tools to assist in timely and fair space allocation.

Municipal Police

The police who were interviewed support the need for some police presence in the courthouse, not only to support the security function but to support the Crown Attorneys through Police Bureau with respect to the Crown Brief. However, they do not believe that 120 police staff need to be in the Brampton Courthouse. They argue that prospectively, the majority of police staff could be located in a building area close to the courthouse that would house other ‘non-core’ functions.

Probation/Parole

Staff delivering parole and probation services believe their presence is essential to the efficient processing of cases. They interact with other players in the courthouse, especially Crown Attorneys. They are required to supervise court documents and have the first contact with clients when charges are issued. Should they be housed elsewhere, they believe that the justice system would suffer inefficiencies and the clients would not be served as well.

V/WAP/Victim Services of Peel

Staff of V/WAP holds the view that their function is a core one and ought to be located in a courthouse. Their work supports the activities of Crown Attorneys and in terms of adjacency, requires close proximity to the Crown Attorney space. Victim Services of Peel Region supports the same argument as parole and probation.

Legal Aid

Legal aid lawyers, whether advice or duty counsel, believe that their services are core and need to be located in a courthouse. Further, they are concerned about adjacencies, especially where families are concerned, and the question of placement and quanta of space allocated to FLICs and informational resources made available to the public.

Theme #3: Planning Issues

The judiciary, Crown Attorneys, and court managers offered strikingly similar observations about the capital planning process.

Pre-construction phase

The judiciary from both courts detailed the lengthy and often tortuous process of planning that was initiated with a political decision to build a courthouse and extended to detailed functional planning. All pointed to three successive budgetary reductions that led to space cuts. The cuts, representing roughly 30 per cent of the original space allocation, were of such a magnitude, in the view of the respondents, that they demanded a critical re-examination of the original assumptions underlying the project. Courtrooms were reduced from 45 to 35. With such a dramatic reduction, it was perceived that the Government was not recognizing the unique characteristics of the Brampton environment such as:

- Large demographic pressures
- Proximity to an airport with its attendant caseload
- Multi-lingual and multi-cultural demands
- Significant legislative and programmatic shifts that impact on caseload
- Rising presence of unrepresented litigants

From the vantage point of current judges and users, the government's time line for planning was too long, the assumptions underlying program growth were ignored, and there were no real allowances made for future growth needs. As one judge stated, "legislative and programmatic changes have had a huge impact on Courts." Moreover, the process leading to the downsizing of the courthouse was not seen to be transparent. Participants in the Users' Committee feel that they were not actively consulted after the downsizing decisions were taken.

Judges from both courts who were active participants in the pre-construction phase argued that terms of reference needed to be developed for Users' Committees. They suggested that the province needs to have a balanced approach between local input and central direction. While the judiciary would be loathe to ignore unique "local culture," they argued that there are a number of principles and approaches that ought to be seen to be principle-based and providing the context within which local input would be aggregated.

Judges, Crown Attorneys and court managers all referred to the need to develop sharper instruments to predict program and case load growth.

Court managers and Legal Aid Ontario suggested that planning should be conducted from a client/flow perspective, and not an aggregation of user perspectives.

Post-construction

Judges, crowns and managers all referred to the apparent absence of knowledge transfer from one major capital initiative to another. The judiciary also specified the need for a courthouse expansion committee. This committee would be charged with prioritizing needs and ensuring that a long-term plan existed for the new building. In fact, most argued for a long-term regional capital plan as a pre-requisite to rational resource allocation.

Perhaps equally important to note is the fact that most people interviewed could not describe post-construction space planning processes. Finally, discussions on planning led inevitably to observations about the absence of a policy framework for occupancy and a set of guidelines to determine who should move when acute space shortages arise.

Issue #1: Prisoner Management

The judiciary, Crown Attorneys and the police addressed issues of prisoner management. The Brampton Courthouse relies primarily on the Maplehurst Correctional Facility to transport the accused to court. Prisoner delay is a problem, notwithstanding the efforts of corrections staff to address the issue. Those operational issues are exacerbated by an inadequate sally-port which cannot accommodate large numbers of prisoners in a timely fashion.

The subject of prisoner transportation is a highly emotional one. This suggests that distance, traffic congestion and the like ought to be considered much more seriously when the future sites are developed for consolidated courthouses relying on transport of prisoners from 'Super-Jails'.

Prisoner transfer within the courthouse is problematic as well. Judges from both courts note that holding cells near courtrooms are rarely used and that resourcing from the police is inadequate.

SPACE

The Judiciary

Both benches maintain that the Brampton Courthouse is a good building that quickly outgrew the demands placed on it. There are too few courtrooms. The motion rooms are too small and not functional or flexible, given the absence of

Theme #5: Functionality

prisoner-boxes. The interview rooms have reached capacity. In short, from the judges' perspectives, there is inadequate space for adjudication and judicial chambers, including requirements for justices of the peace. There are currently 29 justices of the peace assigned to Brampton working within 14 chambers. In the minds of many, "there are even greater pressures outside the courtroom than inside the courtroom."

The bench is also concerned that the type of space allocated to mentally ill accused is inappropriate.

The judiciary reminded the Principal Researcher that when downsizing from the original plan occurred, there was no prioritization reflecting occupancy. Pro-rated reductions were made from each judicial and user area. A number of justices indicated that there are serious "issues of ownership of courtrooms as between the Ontario Court of Justice and the Superior Court of Justice."

Crown Attorneys

The Crown Attorneys spoke to the matter of the allotment and configuration of space for the public. The crowns argued that public access needs should be accommodated on the ground floor of a courthouse. In their view, crowns would secure space on the first floor in order to utilize a consolidated case management approach with close proximity to first appearance and bail courts and adjacency to a public access/information centre. Extending this line of argument, all information supports to the public such as FLICs, legal aid support, advice counsel, and information kiosks should be readily accessible on the first floor of a courthouse.

The Crown Attorneys also indicated the need for more meeting rooms. They, the judiciary and the private bar believe that courthouse design needs to reflect the latest trends in dispute resolution and new legislative and

programmatic approaches to justice. More matters are being resolved out of the courtroom and space needs to be allocated for such resolution. Space pressures *outside* the courtroom, in their view, are as serious, if not more serious than inadequate numbers of courtrooms.

Private Bar

The private bar echoed the concerns expressed by the judiciary and the Crown Attorneys. They cited inadequately-sized motion rooms that cannot accommodate the number of lawyers required; the need for more interview rooms or the dedication of current ones. Currently, interview rooms are being allocated to other functions because of competing program pressures. They are also concerned that the building is not family friendly and ought to include a childcare centre.

Court Management

Court managers indicated that the building is simply too small to meet current users' needs. The courtrooms are too small, especially for the Ontario Court of Justice.

The space for court support is inadequate. The administrative counter area, which serves 10,000 people per month, is too small.

The Court Management Group agree with the judiciary and the bar regarding the inflexibility and dysfunctionality of the motion rooms.

With respect to the courtrooms, the court clerks find their space too confining and they resist bringing in computers.

Police

The single greatest functional deficiency from the perspective of the police is the undersized sally-port due to the location of a column in the delivery area. The area cannot accommodate buses.

Theme 45: Functionality.com

The police also refer to the absence of a muster room, gym or shower facilities.

Probation and Parole

Probation and Parole staff say space for meetings and staff is insufficient. They suggest that current office space is not up to code.

Social Agencies

The social agencies are concerned about the adequacy of space. They require some quiet space and some space that is specifically suited for mentally ill people. They also note the lack of privacy for female accused waiting in the holding area to see duty counsel.

V/WAP/ Victim Services of Peel

V/WAP argues that there is an acute need for more child-friendly courtrooms. They also need a waiting room for victims, and more space in their service area.

ACCESS TO/FROM BUILDING

The judiciary expressed a concern about inadequate public transportation and the site selection for the Brampton Courthouse.

All other respondents noted the following with respect to access to and from the building:

- There is a circulation log jam at the elevators and the main entrance, especially in the busy morning hours.
- Given the high traffic, the lack of access to stairwells at the insistence of the Fire Marshall, impedes operational efficiency. The police support the use of stairwells with whatever security precautions are necessary.
- FLIC and probation offices are the most difficult to find.
- Jury deliberation rooms have no access to the exterior of the building.
- Clients find it difficult to find their way out of the building.
- Parking is inconvenient for clients.

Respondents other than judges also spoke of the need for Internet access in the courtrooms, and the need for volume control in interview rooms. Justice-related agencies situated outside the courthouse would like electronic access to court lists.

The private bar also made known the concern that voice lift systems in courtrooms interfere with devices such as Blackberries.

Staff of social agencies suggested that one remedy for the congestion at elevators and the main entrance might be to permit the second entrance to be open during jury selection days.

SECURITY

The Judiciary

Space at the main entrance is inadequate for security purposes, according to the judiciary. There is some concern with jurors using the public elevator for access to upper court levels.

It was noted that currently, justices of the peace walk through unsecured areas to get to intake courts.

In some instances, holding cells adjacent to the courtrooms are not being used because they do not contain security cameras.

Some judges believe that there ought to be a greater police presence in the courtroom.

One judge summarized his exasperation with the state of security by stating: "We lost control of security when the function was transferred to the municipalities."

Theme #5: Functionality

Crown Attorneys

The crowns are also unhappy with the state of security. Like V/WAP, they are concerned that families of both victims and the accused enter through the same door into the courthouse. Crowns would like enhanced security in their own quarters.

Police

The police who were interviewed for this study are more than aware of their responsibility for the security function in courthouses. They argue that notwithstanding their legislative obligation, they are not security “experts”, even though they are called upon to sign off on security plans.

They noted that the matter of one door only being open is a function of resourcing, not preference.

Corrections

Correctional staff perceives that the state of security for the accused, particularly in the holding areas, is insufficient.

V/WAP

V/WAP staff makes the point that the line-ups for security constitute a serious problem for victims. A private entrance would solve this problem.

Probation and Parole

Parole officers suggest that the parole office does not meet health and safety standards.

ADJACENCIES

Most of those interviewed indicated that many of the planned adjacencies were satisfactory. The following issues, however, were noted:

- The justice of the peace intake area ought to be adjacent to the administration.
- Holding cells need to be located close to bail courts.
- Greater thought needs to be given to the location of support agency offices.
- Some agencies ought not to be adjacent given their focus.
- Placing social agencies all together causes crowding and congestion.
- It would be preferable to plan by business line, and client and workflow in order to determine the most appropriate adjacencies.
- The trial coordination offices have been moved and are still not ideally situated.

Inadequate attention is paid to the needs of families and children in the consideration of space and adjacencies.

INFORMATION

Judiciary/Court Managers

Both benches and the court management staff noted that the signage is insufficient and does not address the language needs of the region.

Crown Attorneys

The crowns referenced the location of the FLIC as being less than optimal. In addition, they offered that the first floor of a courthouse ought to have an information kiosk available to the public.

Private Bar

Members of the private bar indicated that the legal aid office is not clearly delineated. They also mentioned that the Building Directory has not been updated since 2001. Further, they mentioned that an information kiosk ought to be created on the ground floor.

Theme #5: Functionality

Social Agencies

Respondents from the social agencies expressed concern that the information needs of their clients are not being met. Way-finding is a constant challenge. In their view, courthouses ought to be places where individuals can find pertinent legal information, not just navigational assistance. The information desk on the first floor of the courthouse does not provide information; rather staff at the desk provide tickets for the Court Services counter.

Pamphlets available in the courthouse are restricted to those published by the government and are not available at the information desk.

From the perspective of the social agencies, many pressures experienced at the courthouse could be alleviated with relevant, useful and current printed and web-based information available in many languages suitable for the population of the region. In addition, the social agency staff noted that many clients cannot read signs and rely on staff for directions and support.

Parking

The judiciary and all participants pointed to the inadequacy of parking and the concomitant burden placed on families, victims, and users. Some staff cited public complaints regarding the walking distance to and from the parking lot. A few mentioned that there were too few spots designated for the disabled. Also, female staff have expressed concern about safety when working late.

OTHER FUNCTIONAL ISSUES

Medium-sized courtrooms

- The judiciary expressed interest in a middle-sized courtroom.

Flexibility

- Given the limited use of civil jury courtrooms, the bench, the bar, and court administrations wish to see the highest degree of flexibility in the space, witness/defendant boxes, furniture, to permit multi-use, and to accommodate the needs associated with multiple counsel and multiple interpreters.

Interpretation booths

- Interpretation booths are not used often due to their poor functionality. Since the interpreter cannot be seen from the courtroom, visual communications are compromised.

Aesthetics

- There are no plants or art in the public area.
- Customer service
- It would be helpful to have an ATM in the courthouse.
- If basic office equipment (fax and printer) were to be located in the holding area, many matters requiring documentation signed by a judge could be expedited (as is done in American courthouses.)



JOHN SOPINKA COURTHOUSE, HAMILTON

5.1 History

The John Sopinka Courthouse in Hamilton has roots that reach back into the 19th century.

Opened in 1999, the courthouse is located on the site of an 1886 post office and customs house and occupies the 1936 post office that was built to replace the original structure.

The new Hamilton Courthouse consolidates a number of facilities that were built or leased in the city between 1956 and 1982.

- 1956 – New County Courthouse opens at 50 Main Street East
- 1966 – Provincial Court (Criminal Division) leases premises at 125 Main Street East
- 1976 – Provincial Offences Court leases premises at 32 James Street South
- 1978 – Unified Family Court leases premises at 100 James Street South
- 1982 – Land Registry Office is relocated from the Main Street Courthouse

During the 1956 -1982 period, various individuals along with the Hamilton Law Association advocated for the consolidation of all judicial services for Hamilton-Wentworth Region.

In 1988, the Ministry of the Attorney General (MAG) proposed that 125 Main Street East be renovated and the lease extended by 20 years. The Hamilton Criminal Legal

Association rejected this proposal. Later that same year, the federal government announced a plan to build a new postal plant in Hamilton.

Following this, considerable pressure was put on the Attorney General by various constituencies, politicians, and the legal community to create a consolidated courthouse on the heritage post office site. Numerous letters and newspaper articles were published and meetings were held to advocate this position. A feasibility study was conducted to determine whether the post office could serve as a consolidated courthouse.

In 1989, the Ministry of the Attorney General released a public bid calling for the lease of 3,950 rentable square metres to facilitate court consolidation within the post office building. Canada Post was to grant an option to the Province to purchase the property for \$6.7 million with vacant possession by March 31st, 1991.

On March 21, 1990, the Attorney General announced that the Provincial government would buy the post office and convert it to allow for the consolidation of all courthouse facilities in Hamilton. This plan would not, however, include the Unified Family Court.

The first Users' Committee met in 1991. On September 17, 1992, the Government announced that the firm of NORR Partnership Limited Architects/Engineers had been awarded the contract to design the new consolidated courthouse in Hamilton. The John Sopinka Courthouse was opened on May 31, 1999.

5.2 Profile¹

According to the 2001 census, the population of Hamilton was 662,401 - a 6.1 per cent increase from 1996, (the same as the average for the province). The census also showed that, in Hamilton in 2001:

- The population density per square kilometer was 482.9 compared with 12.6 for the province.
- The median age was 37.8 years as compared to the provincial median of 37.2 years; 28.8 per cent of the population was 19 or younger with the provincial average being 26.3 per cent; 14.3 per cent was older than 65 compared to the provincial average of 12.9 per cent.
- 23.3 per cent of the population was foreign-born compared to the provincial average of 26.8 per cent. Of that number, 41.6 per cent were members of visible minority groups. The largest sub groups were South Asian (22.1 per cent), and Black (20 per cent). Just over 5 per cent came to Canada between 1991 and 2001 compared to the provincial average of 9 per cent.
- Average earnings were \$35,360 compared to the provincial average of \$35,185; the unemployment rate was 5.7 per cent compared to the provincial average of 6.1 per cent and 10.5 per cent of the population received government transfers compared to the provincial average of 9.8 per cent.
- 15.3 per cent of families were led by single parents compared to the provincial average of 15.2 per cent.

In summary, Hamilton is a dense urban community marked by moderate growth, an older population, slightly higher than average government assistance and a relatively small number of foreign-born citizens and members of visible minority groups. Hamilton is characterized by average income and a slightly lower-than-average unemployment rate.

¹ All data in this profile are based on the 2001 census. *2001 Census of Canada*, Statistics Canada. <http://www12.statcan.ca/english/census01/home/index.cfm>

5.3 Architectural assessment

As noted on page 143 of the Perkins Eastman Black architectural report, and verified by the court managers, the following services and programs are currently housed in the Hamilton courthouse:

- Judicial offices
 - ♦ Superior Court of Justice
 - ♦ Ontario Court of Justice
 - ♦ Judges and justices of the peace
 - ♦ Superior Court of Justice Regional Senior Justice, Central South Region
 - ♦ Ontario Court of Justice Regional Senior Justice, Central West Region
 - ♦ Ontario Court of Justice Regional Senior Justice of the Peace, Central West Region
- Adjudicative spaces (e.g. courtrooms, motion rooms, pre-trial/settlement conference rooms)
- Court Services
 - ♦ Director of Court Operations, Central West Regional Office
 - ♦ Managers of Court Operations
 - ♦ Main Administration and Filing Office
 - ♦ Trial Coordinators' offices
 - ♦ Court support offices, including clerks, reporters, interpreters and Court Services Officers
- Director of Crown Operations, Central West Regional Office
- Crown Attorney's Office
- Victim/Witness Assistance Program
- Social Agencies, including:
 - ♦ Elizabeth Fry Society
 - ♦ John Howard Society
 - ♦ Mental health workers
 - ♦ Native court workers
 - ♦ The Salvation Army
 - ♦ Hamilton Police Program for Families of Homicide Victims

- Legal Aid Ontario duty counsel day offices
- Probation and Parole day offices
- Hamilton Law Association lounge, library and robing rooms
- Hamilton Police Court Bureau
- Prisoner holding cells and related services
- Provincial Offences Court administration and courtrooms (Operated by the municipality)
- Food services counter
- Building services (ProFac)

5.3.1 Planned occupancy

There have been few if any changes to the Hamilton courthouse relative to its original plan.

5.3.2 Architectural changes

Since it first opened in 1999, there have been minimal program changes to the building. These include the construction of a new Crown operations area in a vacant portion of the fourth floor and renovations to the V/WAP offices on the fourth floor

5.3.3 Compliance with Architectural Design Standards

The Hamilton Courthouse is not a very efficient building and its efficiency ratio is much higher than industry standards. This is due in part to its heritage building status. Notwithstanding this, the courthouse generally meets the standards for room dimensions, space and security. Since the Hamilton Courthouse is a relatively new building, it is in general compliance with current *Ontarians With Disabilities Act* standards.

5.4 Public access to service

5.4.1 Public transportation

The courthouse is centrally located in a well-developed urban area with good access to buses and the GO Train. There is a bus stop located at the corner of the site and the GO bus station is two-three blocks to the south.

5.4.2 Parking

The site provides no street-level parking for the public but there are 40 parking spaces provided below grade. Also, there is handicapped parking provided adjacent to the main entrance and the majority of surface parking lots used by the public are located to the south of Main Street.

5.4.3 Access to the building

The Hamilton courthouse has two distinct entrances from two streets and so requires two security screening points. Due to the configuration of the ground floor, a single building entry cannot be accommodated. The main building entrance is located directly adjacent to the street line and provides no forecourt to the building. Inside the main entrance, space for security queuing is extremely limited and users often 'spill out' onto the public sidewalk.

The site does include a small drop-off area but it is quite small and provides the only barrier-free access to the main entrance.

5.5 Hamilton Courthouse activity - case management and delay

The John Sopinka Courthouse is one of two courthouses located in the downtown core to serve the Hamilton-Wentworth Region. All Superior court civil and criminal matters are heard at the Sopinka Courthouse, as are all Ontario court criminal matters. In addition, the municipality leases space in the Sopinka Courthouse to deliver Provincial Offences Court Services. All family court matters are dealt with in the separate Unified Family Court building located north of the Sopinka Courthouse. Hamilton was the first Unified Family Court pilot project in Ontario, beginning in the early 1970s.

Hamilton is regarded as a medium-sized court location in the province, as represented by the data in Table 4. While Hamilton experienced criminal backlog and delays in the early and mid-1990s, these problems seem to have been addressed, evidenced by the fact that Hamilton was not identified as one of the Justice Delay Reduction Initiative sites in 2003.

CASE FLOW, HAMILTON, 2000-2004

TABLE 4*

	SUPERIOR COURT				ONTARIO COURT		TOTAL
	CRIMINAL	CIVIL	SMALL CLAIMS	FAMILY ²	CRIMINAL	FAMILY	
New cases							
2004	196	5645	3407		20,039		29287
2000	156	4134	2542		21,440		28270
% Change	25.6%	36.6%	34%		-6.5%		3.6%
Events heard							
2004	357	4559	2433		165,534		172,883
2000	359	5382	1539		152,767		160,047
% Change	-0.6%	-15.3%	58.1%		8.4%		10.8%
Courtroom hours							
2004	1778	2278	803		8768		13,627
2000	1600	1849	679		8557		12,685
% Change	11.1%	23.2%	18.3%		2.5%		7.4%
Average time per event (2004)	299 min.	30 min.	19.8 min.		4.17 min.		6.12 min
Disposed							
2004	171	N/A ³			21,079		21,250
2000	195	N/A			23,087		23,282
% Change	-12.3%	N/A			-8.7%		-8.3%
Pending							
Pending – 2004	-12.3%	N/A			7732		7886
Pending – 2000	88	N/A			7400		7488
% Change	75%	N/A			4.5%		5.3%

¹ There is no family presence in the Hamilton Courthouse as there is a separate Unified Family Court in the city.² Not available.³ Data provided by the Statistical Planning and Information Unit, Court Services Division, Ministry of Attorney General.

Table 4 provides a snapshot of Sopinka Courthouse activity during January 1, 2000 – December 31, 2004. It indicates that there was a slight increase in case load (3.6 per cent, including a 36.6 per cent rise in SCJ civil cases) and moderate increases in events heard (10.8 per cent, including a 58.1 per cent rise in SCJ small claims cases) and courtroom hours (7.4 per cent, including a 23.2 per cent rise in SCJ civil cases). The number of cases disposed in the Sopinka Courthouse decreased by more than 8 per cent, while the number of cases pending increased by 5.3 per cent, suggesting that the Hamilton Courthouse is slowly increasing its waiting list. Overall it appears that the Sopinka Courthouse is experiencing a slight upward pressure.

5.6 Key themes/perceptions from local participant consultations

The first meetings held in Hamilton were with the judiciary. As in Brampton, the judges recalled the historical backdrop that led to the political decision to build a consolidated courthouse and a separate Unified Family Courthouse. Some of the judges present were actively involved in the planning that led to the construction of the new

courthouse. The principal researcher was reminded that the court was originally intended to be an Ontario Court of Justice courthouse. Perhaps two comments from the justices interviewed sum up the general perception of the Hamilton Courthouse: “The courthouse is a great building and is well designed,” and “There are few shortcomings.” There are strong positive attachments to the building, and its heritage architecture.

Six themes emerged from the discussions with the judiciary and stakeholders.



Members of the private bar indicated that lateral communications have become more difficult in the consolidated courthouse.

The bar stated that there is no policy to determine who needs to be moved out when a shortage of space arises.

From the vantage of customer service, Court Managers believe that all relevant social agencies need to reside within a courthouse.

They, being the staff asked to prioritize and resolve space issues within the courthouse, are placed under considerable stress with competing, and often equally compelling arguments for space; yet they have no protocols or policy framework within which to make recommendations or decisions.

Parole and probation staff believe that they provide a "core function" without whose presence there would be a "qualitative breakdown in the delivery of service" to clients.

Theme #3: Planning

The Judiciary

One justice used the metaphor of an airport to describe how courthouse planning ought to be done. Attention should be paid to the client and the appropriate flow. The staff, except for the judges and court administration, who would be permanent residents, would have temporary quarters for dealing with the business of the day. In this vein, justices suggested that there needs to be a substantial rethinking of the planning processes. Given that there is little transfer of knowledge about experience with the consolidated court after the fact, the justices believe that formal ex post facto consultation with the judiciary regarding experience and modification of adjacencies needs to take place before each new major capital initiative begins and then after it is implemented.

Much more care needs to be given to site selection. Heritage sites, such as the beautiful one in Hamilton, are very complicated building entities and by their nature impose a large number of restrictions. The justices, and indeed all those interviewed in Hamilton, were quick to point out with pride, just how much everyone loved working in that building. Nonetheless, there were considerable compromises that were imbedded in that site selection. Some recalled that when the government made significant changes to the plan, judges were not informed.

Those justices familiar with the history of the project maintained that the government made no plans for “surge capacity”, or future demand, and that, with any foresight at all, would have bought the neighbouring building to ensure appropriate expansion space that could be architecturally and spatially aligned with the existing space. That space was sold and a private sector building was erected next to the courthouse. The opportunity cost associated with the non-decision to buy the neighbouring land was high, in their opinion.

The bench representatives asserted that there is no knowledge transfer or exchange of relevant information at the highest levels between one large construction project and the next.

The justices would like much greater flexibility in the design of courtrooms to make possible multiple usages. An orientation of flexibility would entail furnishings, daises, prisoner boxes, furniture, technology and size.

When space becomes tight, they said, there is no orderly or principled approach to selecting who ought to be moved out of the building.

Crown Attorneys

The Crown Attorneys discussed the matter of better predicting future expansion needs. They argued that planners need to be mindful of more than trends in criminal matters, notably family and civil matters. They were suggesting that a better model needs to be developed to forecast programmatic, legislative and trial pressures.

The Private Bar

Members of the private bar brought with them to the consultation a number of individuals who had been intimately involved in the functional planning of the Hamilton Courthouse. As a result of their inclusion, the conversation focused on planning issues. It was suggested that the planning focus needed to be put squarely on the user - the public. From the public's vantage point, new concepts need to be developed about the front end of the courthouse. In the words of one respondent, “far too much attention is paid to the ‘backroom’ of the courthouse.”

Respecting the mechanics of the planning process, the following observations were made:

Theme #3: Planning

- A terms of reference for the Users' Committee should be established.
- The committee should include high level staff with the authority to sign-off.
- Planning must include expansion needs and new approaches to the quantification of future growth needs.
- Adjacent urban sites should be bought when opportunities present themselves.
- Given the disparate nature of the participants in the Users' Committees, there needs to be investment in training for team building. Users are put together for a consolidated courthouse and many may not have had a history of working together.

Some of the historical players observed that the police became much more influential in decision-making as time went on with functional planning.

The bar also suggested that Users' Committees ought to be established after construction so that facilities issues could be discussed. Current bench/bar committees tended to focus on operational matters only.

Court Management

Court managers, while reflecting on the long time line associated with any new major capital initiative, observe that:

- The assumptions underpinning functional planning can be rendered obsolete by the time the building is about to be erected.
- Technology may have been introduced that needs to be contemplated for both courtroom and courthouse specifications.
- Major trends in dispute resolution may have changed the needs for programmatic space outside the courtroom.
- New legislation and rules that may have profound implications for utilization of space may not have been contemplated when considering space requirements.

- A more complex predictive model needs to be designed to anticipate more fully those variables affecting future expansion needs.

Court managers also believe that specialized courts will become the modality of the future and that this needs to be incorporated into future planning.

In line with previous comments made about the need for training, Court Managers and supervisors believe that recognition has to be given to the development of an organizational culture that would support effective planning when space becomes scarce and difficult decisions need to be made. To expect non-silo behavior without appropriate training is folly, in their opinion. To plan for the future without considering massive infusions of technology is also not in keeping with public expectations of customer service.

Probation and Parole

Parole officers said that they had been asked, during the early phases of functional design, whether they wished to have parole and probation for the entire region located in the courthouse, subject to vacating as space pressures dictated. Concerned about stability of function and staffing, they declined.

Parole staff also spoke to the difficulty of making modifications to existing space in a heritage site.

Social Agencies

Staff from the social agencies referred to the absence of a protocol or commonly agreed upon framework that would inform the request and acquisition of more space.

Theme #4: Prisoner Management

Many of those interviewed spoke to the issues associated with prisoner management. The judiciary pointed to long delays in transportation to the courthouse. Corrections staff was aware that correctional facilities, particularly super-jails, needed to prepare large numbers of inmates for delivery to many courthouses, all at the same time. Working as they do in a highly charged labour relations climate, corrections staff is mindful that what appear to be labour relations at their site can be perceived as obstinacy or lack of preparedness. Nonetheless, they maintain that the Ministry of Community Safety and Correctional Services put forward its long-term capital needs based on the assumption of significant uptake in video remand. Such significant take-up has not occurred and, where it has flourished, there has been a significant transition phase associated with buy-in from the legal community. Finally, the corrections staff observed that there is a significant lack of information regarding the medical conditions of prisoners and the very absence of that information is problematic.

The judiciary is still uncomfortable with the tardiness of prisoner movement within the courthouse. They point to inadequate police resourcing for holding cells located next to the courtrooms and the resulting long waits for prisoners to be brought up from the basement holding cells. Notwithstanding energy expended in bench/bar committees to address the issue of prisoner management, there does not seem to be a sense of breakthrough in terms of problem resolution.

The private and public bar expressed the same sentiments regarding prisoner transportation. Some held the view that the resolution required the establishment of mandatory video remand and that sufficient advances had been made with “local bar culture” to support such a move.

The police who were interviewed said the issues attending prisoner management were not a function of design or architecture but rather operations and logistics.

Theme #3: Functionality

Space

The Judiciary

Both benches indicated that the Hamilton Courthouse may be at capacity shortly. The portion of the sixth floor lobby devoted to the jury waiting room has proved inadequate. The size of the Jury Assembly Lounge is problematic as it only seats 108 people. As a result, the public waiting area has had to be used when overflow issues arise. The space allocated to the justices of the peace is not considered sufficient by all concerned.

In the minds of the bench, there ought to be at least two large courtrooms available for jury panels.

Floors six and seven are primarily used by the Superior Court of Justice. It seems that there are simply too few witness waiting rooms.

The remand court is deemed to be very well located on the first floor.

In the minds of a number of judges interviewed, the Crown function takes up a considerable amount of space, and these quanta are a looming issue.

Crown Attorneys

The crowns are concerned about appropriate accessibility for mental health patients.

With respect to designated space for the Crown Attorneys, the open office is working well, but is becoming cluttered with files and miscellaneous furniture. Corridors are being cluttered as well due to the need for filing.

The Private Bar

The private bar supports the notion of consolidation and has seen much benefit arising from consolidation. The bar notes,

however, that there appears to be compartmentalization (or “silo behavior”) which requires attention. This behavior is not so much a function of space as it is of the dynamics within a large consolidated space. Members of the private bar find it very helpful to have all the relevant social agencies located in the courthouse.

Court Management

The court management staff cited the same issues as the bench and added the following observations:

- Dedicated space allotted to court administration is inadequate
- The tape management area is too small
- There is no lunch room for 90 staff
- There is no loading area for incoming and outgoing supplies/equipment
- The first aid room is poorly located in the basement
- There is no briefing room for Special Constables
- The government establishes sometimes conflicting land use policies which have a bearing on the functionality of courthouses
- New leasing policies (which oblige business units to absorb real leasing costs) have led to new tenants being absorbed in the courthouse, notwithstanding looming space pressures for existing users.
- The treatment of jurors is less than satisfactory. Not only is there inadequate space but there is no food and beverages, since the requirements exist for two days a week only.
- Additional space requirements impinge on the public

Theme #5: Functionality (cont.)

Social Agencies

Staff associated with the social agencies tended to speak from the perspective of the client user. They are constantly arguing for additional access to meeting rooms which are in short supply. They note that users comment on the following issues:

- The absence of a cafeteria
- No space for children to wait in the courthouse. This is particularly sensitive given that most clients cannot afford childcare. Users feel that the courtrooms are not designed to meet the needs of children who find the space to be intimidating.
- The space dedicated to the weekly narcotics court is too small.
- Private space in the holding cells area is needed.

Access

All participants in the study said that the Hamilton public transportation system serves the public well. The police noted that there are problems with respect to entry into the sally port area. Vehicle manoeuvring by police causes back-up delay for judges trying to enter the garage.

The following common themes emerged regarding access within the building:

- The current barrier-free courtroom cannot accommodate a quadriplegic witness. All courtrooms must be barrier-free for the jury and the accused. At present, they are not.
- The movement of jurors to the sixth and seventh floors is a problem
- There is no access to stairs
- Way-finding for the public and the infrequent user was described as poor

Corrections staff point out that access to prisoners (prisoner management both to and within the building) is hampered by inadequate holding cells and an inadequate sally port. Social agency staff point out that while barrier-free accessibility is quite good at the front door, the rear door is not quite as barrier-free despite the availability of a lift.

Information

In addition to comments about the relatively poor state of way-finding, most participants indicated that current information is restricted to poor signage or Special Constables performing an ambassadorial function. They all pointed to the need for a resourced information desk on the first floor with navigation and basic information that the public requires. Participants saw this modification as being highly desirable and a necessary feature of future courthouses.

Security

The bench has asked for a second means of egress from the building. They also point to the need for heightened security for family matters.

The private bar along with the social agencies suggests that there are not enough private interview rooms.

The corrections staff worries, as they do at all court sites, about the general state of security and the potential for prisoners to come into contact with others prior to returning to the detention facility.

The V/WAP staff believes that the level of security is very good. Victims use the rear elevators on an unofficial basis. The very fact of a second entrance permits victim segregation, a principle sought for by the V/WAP team.

Theme #5: Functionality

Adjacencies

There is a high degree of comfort with current adjacencies with one significant caveat: the trial court coordination function was moved (post construction) from the fifth to the first floor, thereby creating significant efficiencies. Parole and probation would prefer to have been located adjacent to other social agencies rather than its current location abutting court administration, for which there is no operational rationale.

Parking

There is common agreement that access to below-grade parking is difficult and problematic. The proximity to prisoner transport vehicles is not seen as an acceptable adjacency. In addition to security and public perception issues, there is the matter of operational delay arising from the physical arrangement. In addition, there is not sufficient parking for client users and the public.

Other functional issues

- Court Managers were the only users who pointed out that the lack of adequate light has a negative impact on staff morale, particularly on the first floor.
- The building is open on the weekends for Wash Courts, and the HVAC system needs to be tailored to meet the specific requirements of the weekend.
- There is a lack of understanding about processes currently utilized to make spatial and accommodation decisions, and hence there is discomfort with the current processes. The social agencies feel particularly removed from these processes.

A number of groups listed accommodation issues within the courthouse and a set of factors that would weigh heavily on court operations. Among them are:

- Increased charges laid by police
- Changes in leasing arrangements bringing new tenants into the courthouse
- Computerization of current manual practices to improve current efficiencies associated with current adjacencies

Theme 4B: Organizational Culture

In the collective view of the bench and bar in Hamilton and region, “the Hamilton legal community is extremely stable and fosters an extremely collegial attitude.” There appears to be a commonly held view that the legal community, broadly defined, has an ethos that supports problem resolution and commitment. This shared set of beliefs permeates activities regarding space and adjacency in an environment not yet facing acute space challenges.

Court management, while endorsing the comments cited above, would argue that goodwill cannot be taken for granted and that investment in team building is required to ensure effective decision making in the future.



6.1 History

The 1871 courthouse, at 2 Daly Avenue, was renovated extensively in 1953 and again in 1963. By 1973 it was no longer adequate for the demands of litigants, the legal profession, or the judiciary.

The Family Court was operating from premises on Bronson Avenue and the Provincial Court, Criminal Division, was located at the Police Station at 60 Waller Street. Further decentralization of the administration of justice in Ottawa was imminent.

An “ad hoc” Ottawa-Carleton Courthouse Committee was formed in 1975 to liaise with the Attorney General’s department to ensure that the development of a new courthouse would “not be long delayed.”

In 1978, Ogilvie and Hogg Architect Inc. was hired to assess the courthouse situation. It appeared that the Attorney General was considering two sites for a new courthouse, one on land located near the main post office in Alta Vista and the other at the old Ottawa Teacher’s College.

The Ogilvie and Hogg report determined that the renovation of the teacher’s college would be prohibitively expensive and that there would not be enough space to house all courts. They recommended that a private developer be retained to construct a building in downtown Ottawa and that the structure be rented by the Attorney General for use as a central facility housing all levels of court. This recommendation was forwarded to the Attorney General with letters of support from the association, all local judges, and the Defence Counsel Association of Ottawa.

In early March, 1979, the Attorney General rejected the report stating a preference to renovate the teacher’s college and acquire alternative space for whatever the teacher’s college would not house.

An added complication was that the then federal minister overseeing the National Capital Commission (NCC) wished the provincial government to acquire the Daly Building downtown for use as a courthouse. His cooperation was needed if the Province wished to build a facility at Cartier Square, as it was federally owned land.

Another approach was led by certain judges of the Supreme Court, Trial Division, to develop a facility for use by them and the Federal Court of Canada.

In the fall of 1979, the Attorney General, Roy McMurtry, announced that the province would build a facility to be located at Cartier Square to house all levels of court in one structure.

A Users’ Committee was struck to participate in the design of the Courthouse. The committee made trips to Toronto, Brampton, Newmarket and London, Ontario to look at court facilities there. The architects appointed by the Attorney General visited the Vancouver courthouse designed by Arthur Erickson.

In 1981, final plans were published. They did not provide for a registry office.

Thus began another round of approvals with the City of Ottawa, the NCC, and the regional government to accommodate the needs of the registry office.

The Users' Committee continued to be involved intimately with the architects, suggesting new approaches, new ideas, and different plans for courtrooms. The courthouse opened officially on January 20, 1987.

6.2 Profile¹

According to the 2001 census, the population of the urban census area of Ottawa was 806,096. This represented a 7.2 per cent increase over 1996, compared to the provincial increase of 6.1 per cent. The 2001 census also showed that, in Ottawa:

- Population density per square kilometer was 246.9 compared to 12.6 for the province.
- The median age of the population in Ottawa was 36.7 years compared to the provincial median age of 37.2 years; 25.5 per cent of the population was 19 or younger compared to the provincial average of 26.3 per cent, and 11.3 per cent was older than 65, compared to the provincial average of 14.3 per cent.
- 21.1 per cent of the population was foreign-born compared to the provincial average of 26.8 per cent; 81.9 per cent of foreign-born Ottawans were members of visible minority groups. The largest visible-minority sub-groups were Black (25.3 per cent of the foreign-born population) and Chinese (20.2 per cent). There were also large groups of South-Asians and Arabs; 8 per cent of the population came to Canada between 1991 and 2001 compared to the provincial average of 9 per cent.
- Average earnings were \$39,487 compared to the provincial average of \$35,185; unemployment was 5.7 per cent compared to the provincial average of 6.1 per cent and 7.4 per cent of the population received government transfers compared the provincial average of 9.8 per cent.
- 15.1 per cent of families were led by single parents compared to the provincial average of 15.2 per cent.

In summary, Ottawa is a relatively stable, affluent urban community, marked by relatively low unemployment, lower-than-average government assistance and lower-than-average ethno-cultural heterogeneity.

6.3 Architectural assessment

6.3.1 Services and programs – current occupancy

As noted on page 227 of the Perkins Eastman Black (PEB) architectural report, and verified by the court managers, the following services and programs are currently housed in the Ottawa courthouse:

- Judicial offices
 - ♦ Superior Court of Justice
 - ♦ Ontario Court of Justice
 - ♦ Judges and justices of the peace
 - ♦ Superior Court of Justice Regional Senior Justice, East Region
 - ♦ Ontario Court of Justice Regional Senior Justice, East Region
 - ♦ Ontario Court of Justice Regional Senior Justice of the Peace, East Region
- Adjudicative spaces such as courtrooms, motion rooms and pre-trial/settlement conference rooms and Small Claims Court
- Civil Case Management Office
- Court Services
 - ♦ Director of Court Operations, East Region
 - ♦ Managers of Court Operations
 - ♦ Main Administration and Filing Office
 - ♦ Trial Coordinators' offices
 - ♦ Court support offices, including clerks, reporters, interpreters and Court Services Officers
- Director of Crown Operations, East Regional Office

¹ All data in this profile are based on the 2001 census. *2001 Census of Canada*. Statistics Canada. <http://www12.statcan.ca/english/census01/home/index.cfm>



- Crown Attorney's Office
- Victim/Witness Assistance Program
- Social Agencies, including:
 - ◆ Collaborative Justice Network
 - ◆ Elizabeth Fry Society
 - ◆ John Howard Society
 - ◆ Children's Aid Society
- Legal Aid Ontario Duty and Advice Counsel day offices
- Probation and Parole, Ottawa Centre Area Office
- Ottawa-Carlton Law Association lounge, library and robing rooms
- Ottawa-Carleton Regional Police Court Bureau
- Prisoner holding cells and related services
- Family Law Information Centre
- Land Registry Office
- ACCESS Ontario call centre
- Cafeteria
- Building services

6.3.2 Planned occupancy

The Ottawa courthouse was originally conceived in the early 1980s as an Ontario government building that would facilitate access to not only justice services but also to other

public services delivered by the provincial government. The government at that time was committed to improving access to government services for the public by offering "one stop shopping" where possible. As a result, the original courthouse program in Ottawa included a large space for the Land Registry Office and a full Probation and Parole Area Office. Co-locating these programs in the new courthouse also provided viable expansion space for the courthouse if and when needed.

As noted in the PEB architectural assessment, the size of the Ottawa courthouse closely mirrors the original program request in 1982.

6.3.3 Architectural changes

In the years since the Ottawa Courthouse opened in 1987, there have been ongoing program changes in the building. Some of these changes have reflected shifts in government priorities in other program areas, such as the decision to locate an ACCESS Ontario office on the ground floor of the courthouse in the early 1990s and the substantial reduction of space allocated to the Land Registry Office in 2005, reflecting this program's transformation to an

electronic service delivery model. Many of the more recent changes to the courthouse have been as a result of the Justice Delay Reduction Initiative to improve the courts' capacity to manage criminal cases within a reasonable time. These changes include an additional judges chamber, expanded space for Crown Attorney's Office resources and V/WAP, and reconfiguration to accommodate the Crown's vertical file management processes. The courthouse has been able to accommodate some of these new programs and resources as a result of the downsizing of the Land Registry Office, the relocation of a former Ontario Realty Corporation office and the planned relocation of the ACCESS Ontario Office.

6.3.4 Compliance with Architectural Design Standards

The Ottawa Courthouse is efficient and falls within the norm of current industry standards. It also meets ADS standards for room dimensions, space standards and security requirements.

However, because it was built in 1987, it does not comply completely with current ODA requirements. The extent of this non-compliance is relatively minor.

6.4 Public access to service

6.4.1 Public Transportation

The courthouse is centrally located in a well-developed urban area and has good access to public transportation. There is a bus stop located one block south at the intersection of Elgin Street and Rue Nepean.

6.4.2 Parking

The site includes no at-grade parking for the public. Eighty-five parking spaces are provided below grade for the judiciary and staff. A municipal parking garage is located adjacent to the site. There is some limited barrier-free parking provided below grade.

6.4.3 Access to building

The Ottawa Courthouse has three distinct entrances, two of which provide access to the ground floor. The main entrance provides access to the second floor. There is no security

screening at any entrance. Providing staff at three locations will become a concern in the future. There is a main vehicular drop-off at the south-west property line. Taxis use a drop-off at the main entrance.

6.5 Court activity – case management and delay

The Ottawa Courthouse consolidates all court proceedings in Ottawa-Carleton into a single facility. The municipality operates a separate facility nearby to process provincial offences matters.

Traditionally, Ottawa has been considered a medium-to-large court location and has recently reported criminal case volumes comparable to such large jurisdictions such as Brampton. The Ottawa Courthouse includes a Family Court Branch of the Superior Court of Justice, which unifies all family court cases. Ottawa has experienced criminal backlog and delay problems since the late 1980s, and is one of the sites identified by the 2003 Justice Delay Reduction Initiative, which added one Ontario Court criminal judge, 6 additional crowns and the equivalent of 7.5 new full-time court staff to this location.

Ottawa is also unique in that it is Canada's capital and therefore attracts certain types of high-profile prosecutions, such as charges related to terrorism.

The following table provides a snapshot of activity at the Ottawa Courthouse from January 1, 2000 – December 31, 2004. It indicates dramatic increases in case load (40 per cent, including 59 per cent in SCJ criminal cases), events heard (75 per cent, including 82 per cent in OCJ criminal cases), cases disposed (60 per cent) and cases pending (63 per cent.)

In summary, it is noted that the Ottawa court was disposing of more cases. At the same time, however, the number of cases pending was also increasing at approximately the same rate. The result was no substantial clearing of backlogged cases.

CASE FLOW, OTTAWA, 2000-2004

TABLE 5*

	SUPERIOR COURT				ONTARIO COURT	TOTAL
	CRIMINAL	CIVIL	SMALL CLAIMS	FAMILY	CRIMINAL	
New Cases						
2004	481	5781	4357	7719	38,030	56,305
2000	336	5667	4132	5919	23,911	39,965
% Change	24.4%	2.0%	5.4%	30.4%	59%	40.8%
Events Heard						
2004	610	7844	2731	11,012	300,219	322,416
2000	634	8304	2795	7523	164,303	183,559
% Change	-3.8%	-5.5%	-2.3%	46.4%	82.7%	75.6%
Courtroom Hours						
2004	2715	4609	1771	6091	15,754	30,950
2000	3145	6968	1856	6384	12,038	30,391
% Change	-13.7%	-33.9%	-4.6%	-4.6%	30.9%	2.4%
Average Time Per Event (2004)	267 min.	35.3 min.	38.9 min.	31.7 min.	3.1 min.	5.7 min.
Disposed						
2004	392	N/A ²	N/A	N/A	35,935	36,327
2000	313	N/A	N/A	N/A	22,375	22,688
% Change	25.2%	N/A	N/A	N/A	60.6%	60%
Pending						
Pending – 2004	274	N/A	N/A	N/A	19,073	19,347
Pending – 2000	299	N/A	N/A	N/A	11,579	11,878
% Change	-8.4%	N/A	N/A	N/A	64.7%	62.8%

Not available

* Date provided by the Statistical Planning and Information Unit, Court Services Division, Ministry of the Attorney General

6.6 Key themes/perceptions from local participant consultations

The first meetings held in Ottawa were with the judiciary. The bench is very proud of the aesthetics of the building and considers it to have worked well to date. It expressed serious concern, however, about courtroom space that is falling behind demand perceptibly. The judges believe that the Ottawa Courthouse was “the perfect courthouse then, but is not now.” They are so disturbed by current and impending courtroom space pressures that they talk about “taking back our building.” They reminded the project team that the courthouse was constructed as an Ontario government building with a number of government-led, non-judicial projects designed to enhance customer service. As a result, in their perception, large allocations of space were given over to non-judicial functions. The justices suggested that the core functions of a courthouse are:

- Data and document management
- Dispute resolution
- Judges chambers
- Administrative support

They expressed the view that all other functions are non-core and could be located in a building adjacent to the courthouse.

Six themes emerged from the discussions with the judiciary and stakeholders.

Theme #1: The Need for a Vision

Many justices were of the view that it was time for the Attorney General to develop, in broad consultation and with heavy input from the judiciary, a broad set of principles and a conceptual framework that would inform the architectural and operating contours of future courthouses; the model options, from single-purpose and specialized to consolidated; and the values that would drive modern standards.

This vision would contemplate new ways of resolving disputes, with sufficient space for issue resolution outside the courtrooms themselves.

This vision would also speak to the assignment of courtrooms between Superior court and Ontario court and the preferred approach to scheduling. In the view of some justices, the senior court should not have priority rights over any courtroom in the building.

The vision would drive the efforts of all Users’ Committees as they sought to provide useful input to the planning processes.

The bench rejected the idea that courthouses should be included in large government buildings where additional, non-mandate related activities are being considered for inclusion.

While the judiciary holds the view that consolidated courthouses can work well, it cautions that they can become too large unless attention is paid to adjacencies, maintaining these adjacencies post-construction and beyond, and operational efficiencies. Again, “the Ottawa Courthouse is an excellent facility. It has just reached its breaking point for space.” Some respondents question whether Family Court ought to be located in a consolidated site. The argument is that the adjacencies and client requirements, especially for children, are such that the court and the public would be better served in a special purpose building devoted to family matters. There is no emerging sense of “best practice” regarding the ideal location for the Family Court.

Theme #2: The Need for an Occupancy Model

This subject is perceived very differently between and among the judiciary and the stakeholder groups interviewed.

Judiciary

Both benches are of the view that Access Ontario and the Land Registry Offices ought not to have been located in the Ottawa Courthouse. There is strong support among the judiciary for the inclusion of the local law association. On the other hand, it is the preference of many on the bench that the Crown Attorney function, law library, regional offices, Probation and Parole Regional Office need not be in a courthouse. Should there be a decision that most of the Crown Attorney function could be housed in quarters outside but near the courthouse, there would be a concomitant need to streamline significantly the presence of the police in the form of the Police Bureau.

Crown Attorneys

Crown Attorneys in Ottawa, as elsewhere, hold the strong view that efficiency and prudence would require the continued presence of the Crown Attorney function within the courthouse. It would follow, therefore, that the Police Bureau ought to be located in the courthouse as well. The Crown Attorney's Office in Ottawa is implementing an integrated, one-stop shopping approach to case

management called "vertical case management." Vertical case management, at its core, is a strategic approach to case management whereby a dedicated Crown is assigned to a particular case from the beginning of its entry into the judicial system. In the absence of an integrated technology solution, the operational efficiency and effectiveness coupled with increases in client satisfaction are contingent on the physical presence of all the related players touching the file. A significant shift from the current approaches to the occupancy model would need to take into account empirical evidence regarding the utility of the vertical management approach.

The Private Bar

All members of the private bar interviewed argued that the law library and law lounge are key features of any courthouse. They also suggested that, with the movement of the *Provincial Offences Act* court to another building, space had been freed up to retool two courtrooms for criminal trials.

Court Management

Similar to the judges, court management pointed out there are no policy guidelines to help sort out questions regarding who should be in the building, and who should not.

Theme #3: Planning

The Judiciary

A number of judges said that, as a point of principle, the public should enter the courthouse, obtain information, and only enter as “deep” as necessary, thereby funneling access.

The Ottawa Courthouse has an active Users’ Committee. The bench argues that it would be beneficial to iron out the roles and responsibilities of members of the Users’ Committee. It would seem plausible for the Users’ Committee to be concerned about implementing rules for the utilization of space – a set of rules that currently do not exist.

Court Management

The court managers share the concerns expressed by the judiciary. They acknowledge that the building is not adaptive to future growth needs. In addition, they would like to see future courthouse design teams take into account in a much more significant way the impact of proximity to super jails.

Theme #4: Prisoner Transportation

The bench, the bar, court management, police and correctional officers are all of a view that prisoner transportation to the courthouse is not optimal, notwithstanding continuous efforts to address the issue.

Prisoner movement within the courthouse seems to be delayed often. There appears to be no access to dedicated secure interview rooms for females in custody.

However, all go on to suggest that the issue lies not with the court facility, (save and except for the inadequate sally port) but rather with resourcing, inadequate attention to systemic issues during the court planning process, and operations issues related to video remand and other techniques that have an impact on the transportation of prisoners. Moreover, respondents were aware that prisoner transportation is a regional and provincial issue rather than just a local one.

Theme #5: Functional Issues

Space

Courtrooms

The bench and court administration believe that there are not enough courtrooms. (Backlogs have necessitated Ontario court trials being scheduled as far ahead as six to eight months.) It was noted that the former Ontario Realty Corporation space is being converted into a motions room. The space had been pre-configured as courtroom expansion space.

Jury deliberation rooms are too small, particularly now that jury selection can take up to seven days. The space, movement through the building, and general treatment of jurors is considered less than ideal. There is not enough space allocated to justice of the peace chambers. Motion rooms need to be much more flexible with regard to use. (These rooms will still require special, secure entrances for judges even if they are used for dispute resolution). The judiciary has concerns about the glass entry to the judicial suite. On busy days, the capacity of the cell block area is inadequate.

Space Requirements for Non-Courtroom Dispute Resolution

The judiciary believes that more space is required for mediation activities. Given the continuing trend to using small spaces outside the courtroom to resolve issues at the pre-trial phase, it is important that they be preserved for their intended purpose.

Insufficient space has been allocated to child protection matters. Minimal space has been allocated to date for Children's Aid Society personnel.

Crown Attorneys believe space is required for "strategic preparation" of major crime prosecutions.

The new program pressures on space are leading some

of the Superior court justices to demand that the social agencies be removed from the building. Not enough space is allocated to FLIC. Two more separate waiting rooms are required.

Court management and social agency staff support the notion of consolidating space and access according to business lines.

Staff Space

The Crown Attorneys ran out of office space five years ago and are now placing new recruits in rooms originally designed for storage. It was noted that the OPSEU agreement contemplates that permanent office space will be allocated to part-time staff. This will result in space demand pressures. There is no capacity for growth at the administrative counter area for the public.

Access

Access to the building does not seem to be an issue. Some public washrooms are not barrier-free. There is only one service elevator for the entire building, and it is located within the public zone. There are some access barriers to witness and jury boxes in the courtrooms.

The FLIC is often crowded and FLIC staff is exposed to occasional conflict between adversaries in the FLIC space.

Adjacencies

With the exception of the distance of the judicial chambers from the courtrooms, both benches seem to be pleased with the adjacencies in the building.

As discussed earlier, the Crown Attorneys have argued that the requirements of adjacencies flow from the preferred approach to "vertical file management." Parole and probation also mentioned a preference to be located near

Theme 45: Functional Issues

the other social agencies in the courthouse.

Security

The bench and all participants are well aware that the atrium style of architecture that so distinguishes the Ottawa Courthouse in terms of stately and majestic aesthetics poses security issues that cannot be addressed fully. It is also clear that the greatest security issues are presented in Family Court. Judges feel uncomfortable with the glass windows. Crown Attorneys and others would seek further improvements in security. Many wonder if security could be significantly enhanced by closing one of the entrances to the building.

Of security one respondent said: "If there were two things we could do about this courthouse they would be to 1) take back 'our space' and 2) deal with security."

Two other issues were identified by court management:

- The loading dock adjacent to the sally port is not secure as it is not staffed
- The interpretation booth in the ceremonial courtroom is problematic. Its inconvenient location requires police escort through a secure area to access the interpretation room.

This matter of security, a sensitive and delicate one, is made more complex by the attitude of the resident police force. The local police, when interviewed, suggested that they ought not to be in the security business, and that they were not experts in the field, notwithstanding the requirements of the *Police Act*.

Staff from parole and probation indicated that the garage poses real security problems. There are offenders who report after hours and everyone has access to the underground parking areas. Private bar representatives noted that there is a mixing

of staff and released prisoners in the same corridor leading to the garage. They are aware that this approach is being revised.

The bar also referred to the absence of security cameras in the transition cells.

Information

At the time of the team's visit, a new information kiosk was being built at the entrance to the courthouse. It is meant to aid with navigation, provide triage support to the public and give basic information.

A number of judges and courthouse managers indicated that the need for public information greatly outweighs the type of information currently being conveyed.

Legal aid staff and Crown Attorneys point to the overcrowding in the FLIC and the need for greater space, staff and resources.

Light levels

There is insufficient natural light in the building. Court management has tried to deal with this by using low office partitions.

Parking

Identification of parking areas for judges and police is not clear. Earlier mention was made of security issues attached to the current parking configuration. Parking costs are high for the public, which has no on-site parking.

The respondents with an historical bent reminded the

Theme #6: Organizational Culture

principal researcher that the original plans for parking within the courthouse were reduced and that space had been limited due to the expansive presence of bedrock.

Most participants referred to the collegial relations in the Ottawa region, the stability of the bar, and the ease of communications among all stakeholders. A number of general comments were made by respondents that bear inclusion in the report:

- Future expansion was built into the original design of the courthouse by turning over to non-core functions, such as parole and probation, space easily convertible into courtrooms. The relocation of these other functions and the timing of leases have proven to be very difficult.
- “The major functional issues facing the courthouse are a result of legislative changes enacted after the facility was completed.”
- There has been a 60 per cent increase in criminal charges in the last four years.
- The significant change in case load has been related to complexity (criminal cases are of a more violent nature)



BRAMPTON, HAMILTON AND OTTAWA COURTHOUSES

7.1 The research question

Phase I of this study constitutes a comparative analysis of the courthouses in Brampton, Hamilton and Ottawa and focuses on investigating the relationship between the design of a courthouse and the efficient and effective delivery of justice services. This includes analyses of:

1. Planned and current occupancy; were the program requirements and services identified at the outset realized and how have they changed since the building was opened?
2. Programs and services provided; how are the three courthouses similar or different in the types of justice and related services provided?
3. Compliance with current Architectural Design Standards; to what extent does each courthouse conform to benchmark industry best practices and MAG Architectural Design Standards (ADS)?
4. Program and service delivery issues; what are the key challenges faced by each courthouse and how are these affected by courthouse design? With particular reference to:
 - I. Public access to services
 - II. Administrative processes and efficiencies
 - III. Case flow management and delay
5. Analysis of courthouse participants' views and concerns

7.2 Data sources

Three sources of data were used:

1. Quantitative data in the form of resource and case load data
2. Consultations with key participants as detailed in Chapters 5 to 7
3. Review of the Perkins Eastman Black architectural report¹

7.2.1 Resource data

Resource data provide information on the community served by each courthouse and the “assets” available to process the case load, including data on the number of courtrooms, judiciary, staffing and budget available to each site. Resource data were obtained from a number of sources within the Ministry, the offices of the Chief Justices and through the Internet. Table 6 provides information on the similarities and differences among the three consolidated courthouses in terms of the resources available in each.

¹ Facility Planning Studies – Brampton, Hamilton and Ottawa, Final Report. Perkins Eastman Black, ORC. Project No. P20028. January 30, 2006.

RESOURCE DATA 2004

TABLE 6

Indicator (2004) Occupancy	Brampton 2000	Hamilton 1999	Ottawa 1987
Population ²	1,171,400	519,700	829,600
Size of Courthouse ³	36,315 sq. m.	32,716 sq. m.	39,109 sq. m.
Number of Adjudicative Spaces ⁴ SCJ OCJ Sub-Total	20 ctrm. 3 motion 15 ctrm. 2 motion 35 ctrm. 5 motion = 40	8 ctrm. 4 motion ⁵ 11 ctrm. a19 ctrm. 4 motion = 23	13 ctrm. 5 motion 15 ctrm. 28 ctrm. 5 motion = 33
Pretrial/Settlement Rooms	4	4	2
Number of Courtrooms Per Population	1 per 29,285	1 per 22,596	1 per 25,140
Number of Judges ⁶ SCJ OCJ Total	18 23 41	13 ⁷ 8 21	24 15 39
Number of Judges Per Population	1 per 28,570	1 per 24,750	1 per 21,270
Number of Court Staff (FTEs) ⁸	184.2	71.1	134.8
Number of Deputy Judges-SCC	25	10	30
Types of Matters heard at the Superior Court Level	Civil, Criminal, Divisional, Estates, Family (ordinary), Small Claims	Civil, Criminal, Divisional, Estates, Small Claims	Civil, Criminal, Divisional Estates, Family Branch, Small Claims
Types of Matters heard at the Ontario Court Level	Criminal, Family	Criminal	Criminal
Staffing	237.26	131	199
Number of assistant provincial crowns	54 - Also 13 Part-time, 2 Provincial Prosecutors	24	36
Number of office admin staff in the Crown's office	21 FTE, 2 PT 4 Contracts, 2 Temps	14	16.6
Number of VVAP staff	11	7	12
Court Operating Budget	\$11,693,700	\$5,042,900 ⁹	\$8,345,200
Court Interpreter Expenditures	\$329,600 ¹⁰	\$168,200 ¹¹	\$186,000

² Ministry of Finance projections for 2004.³ Gross usable space - Perkins et al.⁴ Includes courtroom, motion conference/pre-trial rooms.⁵ Includes Unified Family Court courtrooms at 55 Main Street courthouse.⁶ Includes judges and masters.⁷ Includes Unified Family Court judges at 55 Main Street courthouse.⁸ Court Services Division 2004 FTE Exercise.⁹ Includes Unified Family Court.¹⁰ Does not include salary cost for unclassified court interpreters in Brampton.¹¹ Includes interpretation costs for Unified Family Court.

With the exception of the overall size of the courthouse itself, Brampton has the greatest resources for each category identified and serves the largest population. In fact, Brampton has twice the population of Hamilton. However, Brampton has the lowest number of courtrooms and judges per population among the three sites, which suggests that this site may experience the most pressure on courthouse resources available.

It is interesting to note that the Brampton courthouse, which opened in 2000, is smaller than the Ottawa courthouse, which started operating in 1987. The Brampton courthouse accommodates more courtrooms in a smaller space, which would indicate that there is substantially more ancillary space available in Ottawa for non-courtroom functions.

7.3 Architectural review

7.3.1 Planned and current occupancy

As noted in the Perkins Eastman Black architectural assessment of the three courthouses, Ottawa and Hamilton were built in accordance with the original facility plan approved by the Ministry of the Attorney General. The original facility and occupancy plan for Ottawa contemplated the courthouse as a government of Ontario building, which would provide a range of Provincial services from a single facility. Accordingly, the new courthouse included a Land Registry Office and a full service Probation and Parole Area Office. In Hamilton, the facility plan reflected a purpose-specific courthouse, but did provide space for the municipally operated Provincial Offences Court administration offices and courtrooms. In both Hamilton and Ottawa, non-court specific program spaces in the original facility program provided opportunities for future expansion of the court as required.

By contrast, the original 1992 facility plan for the Brampton courthouse was much broader and included significantly more space than the amount specified in the Request For Proposals document ultimately issued in 1997. The

total net area was reduced by almost 30 per cent. The programmable area, which excludes space for parking, elevators, mechanical rooms, etc., was reduced by 21 per cent. This dramatic reduction in space was a direct result of funding constraints for capital projects imposed by a new provincial government. One of the results of this reduction is evident from the architectural assessment that Brampton, although an extremely “efficient” building, requires additional circulation space according to industry standards. The significant reduction to the facility plan in Brampton did not, unfortunately, lead to revisions to the occupancy plan for the courthouse. Rather than re-assess what programs and services should continue to be planned for the reduced space available, the Ministry was placed in the untenable position of attempting to squeeze all of the originally identified programs into 30 per cent less space. Not surprisingly, the new courthouse was deemed by most users to be too small on the day that it was opened in 2000, and there have been very limited opportunities for expansion within the existing facility.

In reviewing planned and current occupancy for these three courthouses, the significant increase in the number of Crown Attorneys over the past ten years is apparent. In 1995, there were a total of 502 Crown Attorneys and assistant Crown Attorneys in Ontario. This number has increased by 74 percent to 874 crowns in 2005. Most of the Crown Attorneys in Ontario are accommodated within local courthouses, and therefore this significant increase in resourcing has created pressure on already limited space in many facilities.

In Brampton, the Crown Attorney’s Office has increased from 53 staff in 1996 to almost 71 staff in 2005, a 34 per cent increase in staffing. The number of Crown Attorney’s Office resources in Ottawa rose from a total of 34 in 1995 to 54.5 in 2005, representing an increase of more than 60 per cent. Hamilton experienced a more modest increase in the same time period, from 29 staff to 34.5, representing an increase of just under 20 per cent.

Another key courthouse-based program which has expanded over the past five years, and which in particular was not contemplated in the original facility program for Ottawa, is the Victim/Witness Assistance Program (V/WAP). V/WAP has been expanded to 55 court sites including Brampton, Hamilton and Ottawa. While the original facility programs for both Brampton and Hamilton included space for the V/WAP, the program in Brampton has expanded since the courthouse was opened, and significant changes have been made to provide more space for V/WAP staff and ancillary areas such as private waiting rooms. When the facility program for Ottawa was created in 1982, the V/WAP did not exist. V/WAP currently occupies 244 square meters of net area in the Ottawa Courthouse.

Given that the Ottawa courthouse was built more than 20 years ago, there are more significant changes in this building between the planned and current occupancy than in Brampton and Hamilton. The Ottawa Courthouse originally included substantial space (9 per cent of the total net building area) for the Land Registry Office. In 2005, land registry occupied only 4 per cent of the building, reflecting its transformation to a fully automated service model with substantially smaller space requirements. The original facility program for Ottawa also included space for a Probation and Parole Area Office, rather than the more restricted day office space typically provided in a courthouse. The project team was advised by users in Ottawa that the original understanding with Probation and Parole had been that their area office could be located in the courthouse until the space was required by the expansion of the court program. In fact, the space occupied by Probation and Parole was designed to convert easily into a courtroom.

Based on the comparative experience of the three courthouses it is apparent that while there is a tacit understanding among participants that such established core functions as courtrooms, judges chambers and court administration offices must be accommodated in a courthouse, there is no transparent policy framework that identifies the primary

purpose of a courthouse and informs decisions regarding occupancy based on established principles. As program areas expand and contract, an occupancy model framework should support decisions regarding the re-allocation of space, including the potential need to move some program functions out of the courthouse based on an established priority. The Ministry must also be diligent in ensuring that any significant reduction in the scope of funding available for a new courthouse results in a re-assessment of the occupancy of the building to ensure that program and service delivery is not compromised and that options for future growth are preserved.

7.3.2 Programs and services provided

There are a number of distinctions among the three courthouses studied in terms of the types of programs and services provided. Most notable is the difference in the type of consolidation model used in Brampton and Ottawa versus the model used in Hamilton.

In Brampton and Ottawa, the consolidated courthouses were designed to accommodate all justice services administered by the province of Ontario. Due to the space pressures in Brampton, the facility at 7765 Hurontario Street next to the consolidated courthouse provides overflow office space and courtrooms, so that this site no longer represents a truly consolidated model. In both Brampton and Ottawa, the municipality operates separate facilities for the administration of the Provincial Offences Court.

In Hamilton, the consolidation model for the courthouse at 45 Main Street does not include any family court services. As noted earlier, Hamilton is the site of the province's first unified family Court project, an initiative that has subsequently been adopted as the model to be applied province-wide in cooperation with the federal government over the next several years. In 1988, the former Hamilton Library building at 55

Main Street was converted into a family Court building, and houses all Family Court Services for the city. The John Sopinka Courthouse provides all other justice services, including space leased by the municipality for Provincial Offences Court administration and courtrooms.

This fundamental difference between the consolidation models used has a significant impact on the courthouse. Family Court is associated with a number of social agencies that provide support to the court's clientele and specific adjacencies must be accommodated. Family Court also involves a different clientele, an increasing number of whom are self-represented and require access to comprehensive information regarding court processes and access to duty counsel legal services. Typically there are more children involved in family Court matters than in civil and criminal cases, and waiting areas and courtroom configurations must provide special protection for these vulnerable participants.

There are other notable differences in the programs and services provided in the three courthouses. Ottawa is the only location that operates under the Civil Case Management rules of procedure. Case management generally mandates more control by the court over the progress of civil cases. This may result in more administrative appearances earlier in the life of a case, with the ultimate goal of encouraging early resolution and fewer trials. The impact of this unique program is evident in the Ottawa Courthouse, which provides a separate area for Civil Case Management and houses an office and a hearing room for the master (a judicial function with many of the powers of a judge), as well as space for a mediation coordinator and dedicated administrative staff. Ottawa is also the only courthouse of the three that continues to provide space for the land registry function and that accommodates a full-service Probation and Parole office.

7.3.3 Compliance with current Architectural Design Standards

As noted on pages 10, 92 and 174 of the Perkins, Eastman Black Study, both the Ottawa and Brampton courthouses

are within industry standards for building efficiency while the Hamilton courthouse is slightly below industry standards, due in part to its heritage site designation.

All three courthouses generally meet the MAG Architectural Design Standards (ADS) for courthouses. The finishes of all three buildings meet (and in the case of Hamilton, exceed in some instances) the basic requirements of the ADS. All meet the general security requirement of the standards.

Both the Brampton and Hamilton courthouses generally meet the requirements of the Ontarians With Disabilities Act. (ODA) As the Ottawa Courthouse was built before the ODA took effect, its building is not fully compliant with current ODA standards. Non-compliance issues are relatively minor.

7.4 Administrative processes and efficiencies

For the purposes of analyzing the impact of courthouse design on the administrative processes and efficiencies of the three sites, five types of key administrative processes were examined:

- Counter and information services
- Court scheduling
- Courtroom support
- Document movement and storage, and
- Crown file management.

7.4.1 Counter/information services

Almost every member of the public who attends at a courthouse needs to access information services. For those who are participating in a hearing in a courtroom, the information required may be purely directional. Most other people attending at the courthouse – whether they are members of the public or lawyers – need to access detailed procedural or process information and services from the court administration, Crown Attorney, victim/witness coordinator or Police Bureau counter areas.

The three consolidated courthouses studied demonstrate different approaches to counter and information services. Only one, Brampton, offered a central information desk. The Brampton information desk is located near the single entrance and security screening area on the first floor of the courthouse and was heavily used during the times that the project team attended at the courthouse. While the information desk appeared to be well-located in the main lobby, this area is very congested in the morning when courtrooms begin operation, and long line-ups were observed. Further, this desk appears to give directional information only and issues tickets for service at the main administration counters on the first floor.

In Hamilton, there are two public entrances and no information desk. The public must rely on signage to determine where it needs to go in the courthouse. The main administration counter is fairly visible from the main entrance but is located a fair distance from the secondary entrance on John Street. Several of the local participants indicated during consultations that they felt a central information desk should be a pre-requisite requirement for a large courthouse such as Hamilton.

When the project team visited the Ottawa courthouse (June, 2005), an information desk was being built. The information desk is located at the main entrance to the building. There are two additional building entrances, however, and the location of the information desk may not be obvious to members of the public who do not use the main entrance on Elgin Street.

A number of counter services are provided at each of the three courthouses. Public counters for Court Services, the Crown Attorney's Office and the Police Court Bureau are present in all three facilities. However, the ways in which these counter services are organized and their location within the courthouse varies.

In Brampton, the majority of court administration counter services, including the Intake Office for justices of the peace, are located in an open, consolidated area on the first floor. To access this counter a citizen first has to know that queuing tickets are distributed at the information desk near the main

entrance. This automated queuing system is designed to streamline the wait lines for counter services. Once a ticket has been obtained, the citizen is directed to a small and usually very crowded waiting area in the main administration office area. The signage for this area seemed confusing and contradictory. There is a great deal of congestion in the waiting area and there are long line-ups for service at both the information desk during the peak morning rush and throughout the day at the courts administration counter area.

An additional Court Services counter is located on the fifth floor of the courthouse. This counter provides courtroom support services, primarily to lawyers and litigants who are ordering or picking up court transcripts. The Crown Attorney's Office counter and the Police Court Bureau counter are also located on the fifth floor.

In Hamilton, Court Services are divided into two main counter areas. An area for the filing of all civil and criminal court documents is located on the first floor near the Main Street entrance. A separate counter for finance, enforcement and intake for justices of the peace is also located on the first floor but near the John Street entrance. The court support service counter is located on the second floor. Additional counter services in the Hamilton courthouse are located on the fourth floor for the Crown Attorney's Office, the municipally-operated Provincial Offences Court office, and the Police Court Bureau office.

In Ottawa, the Court Services administration counters are primarily located on the second floor of the courthouse. Three separate counters and administration areas are available based on the type of court matter — civil/small claims, family Court or criminal Court. An additional Civil Case Management counter is located on the fifth floor, and court support counter services are located on the second floor.

The Crown Attorney's Office provides counter service on the third floor and the Police Court Bureau counter is located on the first floor. In addition, there is an ACCESS Ontario counter and a Land Registry Office counter located on the second floor.

In all three courthouses, an effort was made during the planning and design stage to co-locate the main Court Services counters in order to provide better access for the public and to achieve administrative efficiencies derived from locating staff and case files in a common area. The main service counters are located on the ground floor, which enhances way-finding and minimizes the need for the public to access stairs or elevators. The Brampton Courthouse provides the most consolidated court document filing counter configuration. The space available for court staff, files and public queuing, however, is severely limited. The layouts in Hamilton and Ottawa are fragmented and therefore not ideal for administrative efficiencies. While Hamilton and Ottawa provide ample waiting areas for the public, the separation of the service counters may be more confusing for the public and space for court files is insufficient.

In all three courthouses, the court support services are located on a different floor than the main court's administration offices. Ideally, court support services and the main counter filing services should be co-located or adjacent to each other, preferably on the ground floor of the courthouse. This would simplify access for the public and the legal profession, and enhance administrative efficiencies, given that the court files that the court support staff must access to prepare for court are generally located in the main administration office.

While this should be achievable in small and medium-sized courthouses, one of the key difficulties in combining these spaces in a large courthouse is the sheer amount of space that would be required to house all these functions. Court support staff typically represents the largest unit of

staffing in a courthouse, followed closely by filing office staff. When this space requirement is combined with the area needed for file storage, the amount of space required in a single administration area becomes prohibitive. At a minimum, the main filing office and the court support office should be in close proximity to one another.

A final note about counter services should be made with respect to the intake court office for the justices of the peace. For criminal matters, there is a process for commencing a criminal charge in the Ontario Court of Justice called a "pre-enquete." This refers to the process whereby a peace officer or private citizen can appear before a justice of the peace alleging that a criminal offence has been committed. The justice of the peace decides whether to "issues process" by "laying an Information," the official charging document for the Ontario Court of Justice. There is also a process that must be followed when an accused person is released from custody. Once a judicial officer has ordered a release in the courtroom, the required documentation must be prepared by court staff, often identifying the conditions of a release, and then the accused person and their lawyer, if they are represented, must appear before a justice of the peace to have the conditions of the release read, to deposit any bail monies and to provide appropriate signatures.

In each of the three court locations studied, a different configuration for the intake court office is in place. In Brampton, the intake office is co-located with the busy administration counter area and close to the filing area for criminal case documents. The waiting area for this office is extremely small and appears to have been a design afterthought. A small public counter has been provided with security glass and an intercom. While there is secure access to this area from the holding cells, there is no secure access for justices of the peace from their offices.

In Hamilton, the intake court office is also located on the ground floor, but near the secondary building entrance

on John Street and separated from the filing area for criminal documents. There is an appropriately-sized waiting area and dedicated counter for public service. Justices of the peace have secure access to their offices through the administration area and into the private judicial circulation system. There is also secure access to the holding area for in-custody accused.

The Ottawa intake court office is located on the second floor and is adjacent to the criminal document filing area. There is appropriate waiting space and a shared public counter with the criminal administration area. Access to the private judicial circulation corridor is available but not ideally configured. There is no secure access to the in-custody holding area.

In order to ensure that the processes related to the intake court office functions are efficient, the design of this program space should be reviewed. Particularly with respect to the processing of releases and sureties, family members should not be required to wait for long periods because of delays in accessing documentation, the in-custody accused and the required judicial officer. While some of the administrative processes related to this function are certainly influenced by staffing, systems and other factors, the design of the physical space is also critical to ensuring optimal efficiency and service.

7.4.2 Court scheduling

The scheduling of cases for court appearances is a critical function in every courthouse. Staff performing this function must effectively combine available resources – judges, courtrooms and staff – with an inventory of specific cases requiring a variety of appearances. The success of the court scheduling process affects an accused person's fundamental Charter right to trial within a reasonable time, impacts on the ability of families to resolve emotionally and financially draining disputes, ensures that child welfare matters are dealt with swiftly to protect vulnerable children at risk, and at a minimum impacts on the public's perception of access to justice. Accordingly, it is imperative that courthouse design supports the efficient and effective scheduling of court appearances.

Each court is responsible for scheduling its own cases. All three of the consolidated courthouses in this study maintain separate Superior court and Ontario court scheduling units. In Brampton, scheduling staff for the Superior Court of Justice are located in the Court Services Division main administration and counter services area on the ground floor. Scheduling for the Ontario Court of Justice criminal matters is divided between two locations; a day office on the first floor near the high volume first appearance, bail and plea courts, and a main office on the second floor. Scheduling for Ontario Court of Justice family matters is integrated with the family administration office on the first floor.

In Hamilton, court scheduling offices are located adjacent to the judicial offices for each court - sixth floor for the Superior Court of Justice and fifth floor for the Ontario Court of Justice. The Ontario court also has access to a shared day-office space on the first floor next to the large first appearance courtroom. The trial coordinator will work from this office for approximately one hour each morning to facilitate the setting of trial dates coming out of the first appearance court.

In Ottawa, the Superior Court of Justice scheduling office is located in the judges' secure area on the fifth floor of the courthouse. The Ontario Court scheduling office is located on the first floor near the high volume criminal courtrooms and is accessible to the public. There appeared to be issues associated with the location of the Trial Coordinator's Office in each of the three courthouses. The original functional design for the Brampton courthouse called for Ontario Court of Justice scheduling to be located on the sixth floor in the judges' secure area so that the staff would be close to the Local Administrative Judge and the Regional Senior Judge. Space exigencies surrounding the lack of access for the bar and the need to accommodate two additional judicial chambers required the scheduling function to be relocated to the second

floor. In Hamilton, a small office near the ground floor first appearance courtroom was identified for use during peak morning hours after serving as a shared space for the Ontario court trial coordinator.

As a best practice, it would appear that due to the high volume demand for Ontario Court criminal scheduling dates, the Trial Coordinators office should be located in an area easily accessible to the public and profession, and near to the high volume courts from which trial dates are most often requested. While Trial Coordinators generally provide a list of available trial dates to the judiciary and/or courtroom staff to facilitate the scheduling of dates, many scheduling requests must be dealt with by the trial coordinator. This is particularly the case where the estimated time required for a trial is more than half a day in the Ontario Court, or longer than five days in the Superior Court. Accordingly, particularly for the Ontario Court, litigants and lawyers must be able to leave the courtroom, easily access the Trial Coordinator's Office to select a date and then return to the courtroom to confirm the date, all with minimal delay.

An additional court scheduling process that can affect the efficient and effective operation of a courthouse significantly is the sharing of courtrooms between the Ontario Court and the Superior Court. In each the site visited, there were varying perceptions of the ability to "share" courtrooms. In Brampton and Hamilton, courtrooms were allocated to either the Ontario Court or the Superior Court and arrangements to share them were managed on an ad hoc basis by the judges and their Trial Coordinators. In Ottawa, there was an understanding that the allocation of courtrooms was performed on a weekly basis through the Court Services program, which provides staffing for the courtrooms. Ottawa has recently reached the threshold of its courtroom capacity, and the building pressure for additional courtrooms has led the judiciary to examine how courtrooms are allocated between the two courts.

For practical purposes, it is necessary to designate courtrooms for use by one or other of the courts in the first instance. This enables Trial Coordinators to identify their capacity for scheduling cases based on the resources available. Unlike the prevalent model in the United States, where each judge is assigned a dedicated courtroom, and when that judge is not presiding the courtroom is idle, Ontario uses a model where courtrooms are a pooled resource to be shared by a number of judges. Under this model, a courtroom should never remain vacant. In busy court locations, there are occasions where one level of court requires an additional courtroom, and the other level of court has an assigned courtroom that is not being used. In addition to the need for an established process in all courthouses to ensure that courtrooms can be effectively shared between the Ontario Court and Superior Court, the design of courtrooms should enhance the opportunity for this sharing.

7.4.3 Courtroom support

Support for the judge in the courtroom is one of the fundamental services provided by Court Services Division. Courtroom support includes the provision of appropriate staff for the courtroom – including clerks or registrars, court reporters and interpreters – and ensuring that the required documentation and physical exhibits are prepared and available to support court hearings. Features of courthouse design both inside and outside the courtroom can affect the efficiency of courtroom support processes.

In all three courthouses, barriers to efficient support in the courtroom were identified. In Brampton, the original functional design assumed a "hotelling" approach for court support staff. Each staff member would be allocated a locked Cabinet space in which to store personal belongings and would share a large table-workspace and workstations as needed to complete pre-and post-court preparation. Feedback from users in Brampton and corporately indicated that this approach was not effective. The court support area was subsequently re-configured to

provide more dedicated workspace for staff. In Hamilton and Ottawa, court support staff is assigned to share specific workstations and computers. Separate voicemail access is provided.

As noted above, in each courthouse the court support office is located on a different floor than the main administration office, in which the files needed to prepare for court appearances are located. Ideally, the court support office should be adjacent to the main administration office to provide easy access to files for court support staff. The court support office should also be located near the exhibit storage area, as is the case in the Hamilton courthouse, so that staff preparing for court can easily get at physical exhibits required for an appearance. In Ottawa, exhibit storage areas are located both on the second floor in the court support office area and in the basement storage area.

Within the courtroom itself, participants in all three courthouses indicated that the configuration of the dais does not support efficient courtroom operation. In all three sites, but particularly in Ottawa, the effective use of automation in the courtroom is impeded by the lack of ergonomics at the dais and for court support staff. While some of the inefficiencies in processing documents within and from the courtroom could be alleviated by improved technology, there is a lack of a standardized, efficient dais layout to address ergonomics and document processing in the courtroom. This layout should include configuration of the dais for the judge, clerk or registrar, court reporter and Court Services Officer.

Consideration must also be given to design of the courtroom to support the provision of interpretation services. In all three courthouses, designated courtrooms were equipped with a simultaneous interpretation booth or equivalent. The feedback from local users was that the specialized interpretation booth does not work for most court proceedings. One of the key flaws identified in Brampton was that design prevented the interpreter from appropriately communicating with the court – especially the judge – when the interpreter was having difficulty hearing or was otherwise being impeded from doing the job. It was also noted that where multiple interpreters

were involved in a hearing – not atypical in a diverse community like Brampton – it is difficult to control the amount of noise in the courtroom, as multiple interpreters are trying to communicate with multiple accused in different languages simultaneously. The result is that the hearing takes more time to complete, as interpreters may be required to translate consecutively for individual clients in different languages.

7.4.4 Court document management

The court system in Ontario continues to rely almost exclusively on hard-copy documents to support court processes. While some technology has been used to present evidence in court, the hard-copy court file continues to be the official record. Not surprisingly, this represents a significant amount of paper that must be stored, accessed and moved throughout the courthouse during the life of a case.

Civil and family court files appear to involve the most documentation and have the longest active life. Criminal case files retained and stored on behalf of the court tend to be less voluminous and generally are active for a shorter time. While a court case is active, it must remain on-site in the courthouse so that litigants, court staff and the judiciary can have access to the materials. For civil cases, this often means that a case file must be retained in the courthouse for five years and often more.

Brampton, Hamilton and Ottawa all identified issues with the storage and movement of court files. The importance of where the court files are located was emphasized. As noted earlier, court files need to be readily accessible to staff who are required to update and prepare materials for counter service and for court hearings. Given that numerous different areas require this access, the location of the court files needs to be carefully reviewed to optimize efficiencies and reduce duplication of effort and materials.

In each site studied, the project team observed file boxes stacked in hallways and open office areas because there was not enough room in the filing area. A variety of filing systems were seen in the three sites, with various preferences expressed by different users. There was a general observation that when space pressures arise, filing space is one of the first areas to be constrained. The result is often administrative inefficiency, as staff must spend more time looking for documents required for counter transactions or courtroom hearings.

Issues concerning the movement of documents within the courthouse were also identified. As noted above, ideally the Court Services counter area, main court file space and court support office should be located close to one another to facilitate access to court files for all staff. In addition, court support staff must be able to move easily between these areas to retrieve additional file materials and process documents emanating from a court appearance. In the Brampton Courthouse, the lack of access to the stairwells has placed a burden on court support staff to efficiently move a great deal of paperwork to, from and between courtrooms and the court office or Trial Coordinators office. In Hamilton, the stairwells are also closed to the public and staff. However, Court Managers have been able to reach an agreement with the judiciary to allow court support staff to utilize the private judicial elevators for the movement of court files and exhibits. In Ottawa, staff has regular and open access to stairwells between floors in the courthouse, which facilitates the efficient movement of materials from courtrooms and offices. In a large courthouse such as Brampton, if shared access to the private circulation system is not available, then a dedicated elevator for moving of files and exhibits may be warranted.

7.4.5 Crown document management

As noted elsewhere in this report, each of the courthouses studied accommodates the local Crown Attorney's Office and a Police Court Bureau office, both of which support the prosecution of criminal matters. In addition to private offices, public counters and ancillary spaces, there is a

significant document management component managed by the crown's and police. The Crown Brief presents many of the same document management challenges as the court file. As with the court file, crown document management issues could be relieved significantly by appropriate technology solutions. The Ottawa-Carlton Police, for example, indicated that while they are able to pass an electronic Crown Brief to the Crown's office, the Crown's office does not have the required technology to accept and manipulate the electronic file.

In Brampton and Ottawa, which are both Justice Delay Reduction Initiative (JDRI) sites, the Crown's office has implemented a type of case management system referred to as 'Crown case management' in Brampton or 'vertical file management' in Ottawa. Under this type of system, resources in the Crown's office are organized into units or teams that correspond with assigned case files. This approach is designed to restrict the number of individuals who are required to access the Crown Brief, increase accountability to the defence bar with respect to disclosure, and increase efficiency and time management.

In all three courts, the Police Court Bureau office retains the Crown Brief for filing until a trial date is set, at which time the materials are retained by and filed in the Crown's office. There are many points in the processing of a case, particularly during the early stages after an initial charge has been laid, when many parties need to access the Crown Brief for screening, updating and providing disclosure, issuing subpoenas, preparing for court appearances and post-appearance updating. This demand for access often leads to inefficiencies as various parties try to locate, copy and retain the file.

Based on the experience of the three court sites, there appear to be features of courthouse design that can help improve Crown document management. Similar to the discussion above for court document management, it is imperative that sufficient space for storage of the Crown

Brief be provided. All three courthouses studied identified lack of space for storage of the Crown Briefs as a problem. It is also important that the Crown Briefs be located close to both the Crown's office and the Police Bureau. The criticality of this adjacency was key in the failed attempt in Brampton to relocate the bar association's space in that courthouse. The crowns proposed that the bar association space on the first floor, which was close to the high-volume criminal courtrooms, be converted into an expanded Police Court Bureau/Crown case management unit office, which would provide easy access to the Crown Briefs for crowns, police, accused persons and the defence bar. In Ottawa, the lack of proximity between the Crown's office and the Crown Brief file storage area in the Police Court Bureau was noted as an issue.

7.5 Public access to service

7.5.1 Public transportation

Public transportation to both the Ottawa and Hamilton courthouses is good as both are in well-developed downtown areas and near to bus lines and stops. Brampton on the other hand, while on a bus route, is in a greenfield site and is not well-served by regional transportation links.

7.5.2 Parking

Brampton, while not that easily accessible to public transportation, has parking for more than 1,000 vehicles while Hamilton and Ottawa have no on-site parking but are accessible to private parking arrangements. Users at the Ottawa and Hamilton courthouses sometimes complain about the cost of parking while Brampton users express concern about the distances, safety and weather conditions related to the present public parking lot.

7.5.3 Access to the courthouse

In Brampton and Hamilton, the public is required to pass through airport-type security screening to enter the building. In Ottawa, there is no visible security presence in the building, although the local participants have identified concerns with the current lack of security at the entrance.

Neither Brampton nor Hamilton has enough queuing space for the security screening areas at the building entrances. This shortfall is not as evident in Hamilton because of the smaller client volumes.

In Hamilton and Ottawa, there is more than one public entrance to the courthouse, while Brampton, despite being built with two public entrances, is restricted to a single point of entry. Overall, when comparing entry access among the three courthouses, it is startling that what should be considered as basic requirements for building entry are so different, primarily due to local conditions and decision-making in the absence of a clearly articulated province-wide policy on what a courthouse entrance should look like. The courthouse Architectural Design Standards do not provide any guidance on whether there should be one or multiple public entrances and are also silent on the conditions under which a courthouse should have security screening at the public entrance. In the case of Brampton, a decision based on constrained resources was made by the local police service that resulted in only one of two public entrances being opened. In Hamilton, local Court Managers were able to negotiate with the local police service to staff security screening at both courthouses' public entrances. Given that the Brampton courthouse experiences a significantly higher volume of clients daily, it would stand to reason that two public entrances would be more critical in Brampton than in Hamilton.

7.6 Case flow data

Case flow data were obtained from the statistical planning and information unit of the Corporate Planning Branch within MAG's Court Services Division, as well as the Internet, and indicate the inputs, throughputs and outputs of the court.

Comparative analysis requires an agreed-upon set of standard measures for assessing court program and

service delivery. The project team first turned to the Court Services Division's five-year plan to identify performance measures for program and service delivery. The plan refers to the CourTools court performance standards recently developed by the National Center for State Courts (NCSC) to assess overall performance in courts.¹² The project team then reviewed the data available through regular statistical reporting within the Ministry of the Attorney General and determined that data were available only for some of the identified CourTools measures, and often only for some practice areas and not others. For example, there were more data available for criminal matters in the Ontario Court of Justice than for any other practice area.

Accordingly, rather than compare the three consolidated court locations only on the NCSC CourTools measures, the team adopted a modified approach. Available data were analyzed to identify similarities and differences among the three courthouses and potential relationships to the design of the courthouse where possible. The analysis was structured to compare inputs and outputs as well as key activities during the life of a case. Where data were available to apply a CourTools measure, appropriate analysis was conducted.

Given the very complex nature of case-flow management and delay, analysis of the data identifies observations and trends rather than causal connections. Some intriguing observations may warrant future in-depth investigation to determine the impact of various factors on the efficient flow of a case through the court system.

Analysis of the flow of cases through the respective courthouses is limited by available data and the scope of this study. Nonetheless it is useful to conceptualize the flow of cases through the court as case inputs, throughputs and outputs. Case inputs are defined operationally as number

of new cases entering the court system during 2004. Case throughput is measured by the number of events heard and courtroom hours allocated to the hearing of cases during the same year. Finally, case output is defined by cases disposed as well as pending during that year. This conceptualization will be used throughout the report to analyze case flow.

Inputs

TABLE 7

INPUTS – NEW CASES (2004) THREE CONSOLIDATED COURTHOUSES**

	Brampton	Ottawa	Hamilton [*]
SUPERIOR COURT	16777	18338	9248
ONTARIO COURT	39151	38030	20039
TOTAL	55928	56368	29287
% CHANGE 2000-2004	20%	40.8%	3.6%

Case Inputs

As noted in Table 7, Ottawa reported the greatest number of new cases in 2004, followed closely by Brampton. Hamilton had approximately one-half the new cases reported by Brampton and Ottawa.

The rate of increase in new cases is most dramatic in Ottawa, which reported a 40.8 per cent rise during 2000-2004. Brampton reported an increase of 20 per cent while Hamilton noted a very slight increase of 3.8 per cent.

¹² Ostrom, B.J. and Hall, D.J., *CourTools: Trial Court Performance Measures* (Williamsburg, VA: NCSC 2005.)

^{*} The SCJ number for Hamilton does not include family cases from the separate family Court where there were 3,474 cases in 2004.

^{**} This table is derived from data contained in Tables 3,4 and 5.

Case throughputs

THROUGHPUTS – EVENTS HEARD (2004) THREE CONSOLIDATED COURTHOUSES**

TABLE 8

	Brampton	Ottawa	Hamilton*
SUPERIOR COURT	20431	22197	7349
ONTARIO COURT	337420	300219	165, 534
TOTAL	357851	322416	172883
% CHANGE 2000-2004	48.1%	75.6%	10.8%

Notwithstanding the fact that Ottawa reported the greatest number of new cases in 2004, it is interesting to note that Brampton reported a greater number of events heard during that year and a 48.1 per cent increase for the 2000-2004 period.

When examining the number of courtroom hours logged at the three respective courts, certain trends were replicated. Again, Brampton, which had fewer new cases than did Ottawa in 2004, reported a greater number of courtroom hours, representing a 41.6 per cent increase during the 2000-2004 period.

It is also interesting to note that while the number of events in the Ottawa court increased by more than 75 per cent, the courtroom hours only increased by 2.4 per cent, leading one to wonder why there is such an anomaly.

THROUGHPUTS – COURTROOM HOURS (2004) THREE CONSOLIDATED COURTHOUSES**

TABLE 8A.

	Brampton	Ottawa	Hamilton*
SUPERIOR COURT	13381	15196	4859
ONTARIO COURT	28481	15754	8768
TOTAL	41862	30950	13627
% CHANGE 2000-2004	41.6%	2.4%	7.4%

In summary, while Brampton had fewer new cases than Ottawa, it nonetheless seems busier by virtue of the number of events heard and courtroom hours logged. Hamilton, as expected, has roughly half the case load pressure of the other two courts.

* The SCJ number for Hamilton does not include family cases from the separate family Court where there were 3,474 cases in 2004.

** This table is derived from data in tables 3.4 and 5.

Outputs

TABLE 9

OUTPUTS – DISPOSED CASES-CRIMINAL (2004)
THREE CONSOLIDATED COURTHOUSES*

	Brampton	Ottawa	Hamilton
SUPERIOR COURT	370	392	171
ONTARIO COURT	38192	35935	21079
TOTAL	38562	36327	21250
% CHANGE 2000-2004	39%	60%	-8.3%

TABLE 10

OUTPUTS – PENDING CASES-CRIMINAL (2004)
THREE CONSOLIDATED COURTHOUSES*

	Brampton	Ottawa	Hamilton
SUPERIOR COURT	303	274	154
ONTARIO COURT	20632	19073	7732
TOTAL	20935	19347	7886
% CHANGE 2000-2004	38.8%	62.8%	5.3%

Brampton disposed of more Ontario court cases than Ottawa during the 2004 calendar year but fewer Superior court cases. While the absolute number of cases disposed was greater at Brampton, the percentage increase there during 2000-2004 was one third smaller than Ottawa's. In the comparable period, Hamilton reported of 8.3 per cent fewer cases disposed. Again, it needs to be noted that Hamilton has approximately one-half the case load of the other two courts.

The total number of cases pending for the Brampton and Ottawa courts in 2004 was relatively comparable, but Ottawa's increase during 2000-2004 was 62.8 per cent compared to Brampton's 38.8 per cent. During this same time period Hamilton's pending case load increased by a modest 5.3 per cent.

In summary, while Brampton reported a large disposition of cases in 2004, it also had the greatest number of pending cases and seemed to be just keeping even, (Cases disposed up 39 per cent; cases pending up 38.8 per cent) rather than reducing a recalcitrant criminal case backlog. This trend seemed to be similar for Ottawa where the increase in dispositions (60 per cent) was marked by a concomitant 62 per cent increase in pending cases.

While both Brampton and Ottawa appear to be plagued by increasing criminal case backlogs, the rate of increase in the Ottawa pending case load was significantly higher than in Brampton.

* These tables are derived from data in tables 3,4 and 5.

Hamilton, by far, seems to have had the greatest success processing criminal cases. In 2004 it not only disposed of more criminal matters than new cases added, but it reported a relatively small increase in pending cases during 2000-2004. It must be noted that Hamilton's absolute number of cases was considerably lower than Brampton's and Ottawa's.

The data presented here describe the flow of cases through the three consolidated courthouses broken down by the two courts. Appendix D analyzes these case flow data by business lines and provides a more detailed picture of the operations of the three courts.

7.7 Perceptions of judiciary/stakeholders at Brampton, Hamilton and Ottawa

Perhaps the most striking feature of the consultation process with the judiciary and key stakeholders in Brampton, Hamilton and Ottawa was the commonality of themes expressed by all. It is interesting to note that it was the judiciary and court management staff that provided commentary on the necessity for a policy framework. The judiciary and all stakeholders discussed the other five themes, namely, occupancy model, planning, prisoner management, functionality and organizational culture.

All interviewed across the three sites agreed that a vision document is needed to outline the government's policy with respect to composition, organizational structure and courthouse services. Many judges were strongly in favour of the Attorney General launching a time-limited strategic planning process with heavy input from the bench to address the key functions to be performed in a courthouse. All of the judiciary interviewed cautioned against the development of a "cookie cutter" approach to the policy overview. There was recognition that there might be some policy areas requiring articulation by the Attorney General, while leaving room for healthy local input on appropriate issues. The general view of those interviewed was that consolidation has proved successful and the efficiencies and effectiveness contemplated have been realized. There was, however, no consensus on two points

- size and the inclusion of family Courts. Opinions varied with respect to the optimal size of a courthouse. The matter of size, many would argue, cannot be made without considering resources, appropriate adjacencies and the presence of an occupancy framework.

It was recognized by all those who were interviewed that the characteristics of family Courts are such that they might warrant special consideration in a consolidated site. Perhaps another way of expressing this is to say that a "deconsolidation" strategy must be in place in the event that space pressures in a consolidated courthouse become untenable. Such a strategy would contemplate what court functions, not just support functions, may need to be moved out of the building to ensure justice program integrity. One judge said "there is no best practice for the placement of the family Court." It is the strong view of the two benches that a considerable amount of energy needs to be invested in a timely, structured and facilitated process to develop the requisite policy backdrop.

The subject of occupancy was one where there was consensus on the need to develop a framework for who and what services ought to reside in a courthouse. Such a policy document would provide clarity and direction to court administration managers who have the responsibility but not the complete authority to make difficult courthouse space and location decisions. There were differences of opinion as to what would constitute a core function. Many judges (but not all) and the private bar held the view that the presence of both the Crown and court liaison (Police Bureau) function ought to be decreased significantly with the understanding that there needed to be hostelling space for imminent work. The crowns argued that their space allocation was vital to the administration of justice, and the adjacency to the court liaison-Police Bureau function was inextricably linked to their approach to vertical file management, particularly in the absence of appropriate technology to allow electronic transfer

of documents. Many police officers interviewed across all three sites argued that their liaison function could be housed in a building proximate to the courthouse. Agencies made the case for inclusion in the courthouses or, at the very least, location very close to the courthouse in order to meet the needs of their clients. The private bar and the judiciary argued for appropriate space for law libraries and robing rooms. With respect to law libraries, the main issue appears to be their size and location, not their presence.

The third theme articulated by all was the need for improvements in the planning processes associated with courthouse design and construction. The judiciary, court administration staff and social agencies made the point that courthouses are designed for the public and far more attention needs to be paid to the public's needs. The judiciary is concerned with what it considers a flawed process for the development of the functional program. A number of judges, notably in Brampton and Hamilton, said site selection is a thorny issue that requires greater clarification. All participants were of the view that any planning must incorporate the freshest thinking on trends in adjudication and dispute resolution and more sophisticated and robust methodologies to predict both case load and program growth. For the crowns, the agencies, the private bar, and the court administration, the perception is that much of the space pressure exists outside the courtroom, notwithstanding courtroom shortages in Brampton and Ottawa. As one interviewee suggested, there is far too much attention paid to "the back end of the court process," which focuses on trials in a courtroom, and not enough to "the front end" requirements to help resolve disputes before the trial stage. Many crowns and court administrators echoed comments of others by suggesting that planning needs to be conceived in terms of client need and client and paper flow.

Prisoner management appeared as a fourth common theme. The issue of prisoner transportation both to the courthouse and within the courthouse was problematic, particularly for courthouses located in regions relying on transportation from super jails.

The fifth theme concerned courthouse functionality. Some of the issues were site specific. The common messages were that courtrooms need to be built with much greater flexibility, that current approaches to motions rooms are flawed, signage and information services provided to the public are inadequate, and that a more strategic approach with respect to security is required.

Organizational culture was considered a key variable affecting the overall functioning of a courthouse. In Hamilton and Ottawa, all interviewees said the regional organizational culture was cohesive and supportive. Those in Brampton cited the absence of a strong supportive organizational culture as an impediment in the functioning of the courthouse.

While there was a great deal of consistency in the perceptions of those interviewed across all sites, it is clear that the matters of occupancy, site selection and consolidation across all business lines (versus such business line specific courthouses as dedicated criminal or family Courts) would have to be thought through and not be subject to a process demanding consensus. On the matters of vision and policy frameworks, there appeared to be consensus on the need for leadership to articulate an approach, based on considerable and thoughtful feedback that would constitute the view of the government.

What do the data tell us?

1. Many variables, including facilities and the planning of them, affect the functionality of the consolidated courthouses in Brampton, Hamilton and Ottawa.

In distilling both the qualitative and quantitative data available, it is clear that getting the planning for a courthouse right is a necessary but not sufficient condition to ensure the functionality of the courthouse. Other factors, such as the presence of a policy framework, the approach to occupancy, administrative process design, technology and organizational culture are some of the crucial variables that play a role in shaping such functionality.

2. Issues become crystallized when there is an apparent, significant space shortage.

Notwithstanding the limitations of placing a courthouse in a heritage site with all its attendant positive aesthetic attributes, few if any serious functionality issues were cited in Hamilton. This is highlighted by the fact that there is capacity to deal with new program pressures and current and forecast case load.

Brampton, on the other hand, has experienced space pressures from the moment its doors opened. That courthouse not only has a high case load but it experiences constant demands for both courtroom and non-courtroom space for adjudication and dispute resolution. In point of fact, historians would argue that the Brampton court has always been a high volume court and that this trend was merely replicated upon the completion of the new courthouse.

The bench in Ottawa is very concerned about insufficient space for courtrooms in its courthouse. The data reveal that Ottawa has the highest reported number of new cases for the year 2004, and has experienced a 41 per cent increase in case inputs over the last five years. Ottawa, then, is just beginning to experience the type of demand pressures that have been

experienced in Brampton over the last two decades. Hamilton, on the other hand, has roughly half the case load pressure of the other two courts.

3. Courthouses located in regions with high population growth and complex demographic characteristics experience challenges unlike other courthouses.

The case load and case mix data for Brampton and Ottawa indicate two very busy courthouses. In Brampton, there are very heavy requirements for interpretation, for example. While Ottawa appears to be the busiest in terms of the total number of new cases in 2004, the case type mix in Brampton appears to be more complex, and therefore more onerous, than in Ottawa (see Appendix D). Additionally, in Brampton, there appears to be more “churn” in criminal cases and these multiple appearances do not seem to result in speedier case resolution. It appears that courthouses in high population growth areas experience greater surges in demand than courthouses in stable population growth regions. The need for additional capacity or planned expansion space, therefore, is more acute at such sites.

Planning processes take future growth or expansion needs into account. However, the space requirements fall into three categories — courtroom space, adjudicative and dispute resolution space (e.g. conference rooms) and dedicated occupant space (court administration, Crown Attorney offices, judges chambers). Trends in adjudication are requiring more dedicated space for conferencing. Yet, this space is at a premium, with many occupants making legitimate claims for new space. New program requirements, such as V/WAP or FLICs, have to compete with space required for JDRI, new appointments to the bench, and additional crowns created by a variety of new initiatives. While many of these pressures are constant for all courthouses, they are greatest in high growth areas.

The original adjacencies, so carefully planned through the functional design stage are usually altered by the day-to-day exigencies of space requirements.

On the question of optimal size for a consolidated courthouse in a high demand region, there is no consensus on whether there is a tipping point beyond which scale works against optimal service delivery. Some judges and Court Services managers indicated that a courthouse could be too big and that Brampton may fall into this category. Alternatively, approaches taken with recent courthouse projects in other jurisdictions speak to the belief that a large courthouse can function effectively. The new courthouse in Brooklyn, New York¹³ for example, houses 84 courtrooms and related spaces.

Most observers commented that a large footprint must be supported by as much technology as possible, and that both pre-design planning for circulation and adjacencies, as well as an on-going effort to preserve those adjacencies, becomes critical in a large courthouse. Closed stairwells, in a courthouse like Brampton, do not support the speedy flow of documents required for the courtroom.

4. Planning does make a difference

The Ottawa Courthouse is an excellent example of forward planning. The design conceived of spaces on all floors that could be converted into courtrooms easily. Regional offices located on the third floor originally were accommodated on the assumption that they could be moved out when space pressures required additional courtrooms. That future growth capacity will go some distance toward meeting today's courtroom pressures in Ottawa.

The Brampton Courthouse, on the other hand, built at the time of serious fiscal constraint imposed by the provincial government, was completed at 30 per cent

smaller capacity than conceived originally. The cuts to the original plan were so significant that the consequences are being felt to this day. The reduced budget for the Brampton courthouse was likely short-sighted because significant sums have been spent since reconfiguring the new courthouse and renovating the building adjacent to it. Considerable additional funding will still be required to provide suitable expansion space for Brampton, and this may outweigh the perceived savings from reducing the original project size.

The heritage site in Hamilton is considered by most observers to have yielded a majestic courthouse that has had to accommodate a number of restrictions by virtue of its heritage designation but that seems to operate smoothly and has inherent potential growth options.

Architectural Design Standards were met in both Brampton and Ottawa and, to a lesser extent in, Hamilton because of its heritage designation. The issue of site, then, is an important one. The selection of a heritage site attaches to it the compromises that are inherent in such a choice.

The requirements of the Ontarians With Disabilities Act were generally adhered to in all three courthouses. Ottawa was the least compliant of the three. Its construction preceded the enactment of the statute.

The detailed review of each site suggests a number of issues and concerns associated with the planning processes. Principally, the judiciary and users agree that a policy framework is required to shape the planning process.

In terms of functionality, users want to see greater flexibility in courtroom design, a principled approach to determining the needs of the public, and greater attention paid to such administrative areas as court scheduling and document filing and tracking.

¹³ Gleaming New Brooklyn Courthouse Engenders Respect, September 4, 2005, <http://www.newyorknewsday.com>

Public Access and Transportation

The engagement of other ministries and governments in planning is viewed as crucial in the pre-construction stages. In Brampton, in particular, the issue of prisoner management and transportation is problematic. Transportation is often delayed and the sally port area, where prisoners are taken from vehicles into the courthouse, is too small and cramped by pillars.

Current planning models do not include formal representation from the public. All participants in this study cited the absence of the public in both the formal planning processes and the development of services to be provided in the respective buildings as an impediment to achieving the best outcomes.

The administrative processes associated with courthouse functionality were examined and a number of important lessons were derived.

Counter/Information Services

There is a need for centralized provision of information to the public. Such information should include navigation, referral to counter services, and general information that the public needs to feel comfortable in a courthouse. The approach selected should be common to all future courthouses. Currently there is great variation among the three court sites.

While it is recognized that there is a need to consolidate court document filing configurations, a balance between administrative optimization and the sheer amount of space that can be dedicated to administration and filing requirements on the first floor of a courthouse is also required.

The justice of the peace intake court area is one that requires careful planning. The courthouses in Ottawa, Brampton and Hamilton have different configurations for this intake area. Given current expectations for the role of the justices of the peace, greater design clarity for the space required by them in the intake court function is necessary. It is recognized that a number of key considerations must be taken into account, namely access to secure judicial corridors, holding cells and relevant documents.

Court scheduling

The need for public access to court scheduling offices is evident. However, different approaches were taken with respect to the placement and location of the court scheduling offices of the OCJ and SCJ courts at the three sites. There is a need to develop a best practice, which would include discussion of the optimal location of the Trial Coordinators' offices to ensure accessibility from the courtrooms, particularly high volume criminal Courts.

Planning for court scheduling also needs to assume effective sharing of courtrooms between the two courts. Such a planning assumption needs to be supported by fully flexible courtroom configurations, all equipped with a prisoner's box, fitted with access to in-custody accused and of a size that can accommodate multiple circumstances.

Courtroom support

The Brampton approach of "hotelling" the court support function is one that should not be replicated in the future. Best practice would require dedicated space for dedicated staff supporting pre- and post-trial preparation. The courtroom support function within the courtroom needs to be enabled by ergonomically sound equipment, layout and design.

The methodology for providing interpretation support must be restated in the form of a new best practice. Clearly, in courthouses like Brampton with regional demographics requiring heavy utilization of interpreters, current approaches are seen to be inadequate.

Court document management

All those interviewed pointed to the inadequacy of space allocation for court document management, particularly in document-intensive fields like civil and family matters. Technology must be harnessed to support this very real need. Only then can there

be a balance of space needs and the finite ability to meet the needs of the public on the first floor. On site visits to all three courthouses, there were boxes of files stacked in open spaces and hallways. Serious adjacency questions exist concerning the maximization of the court document management functions and the location of key users and participants.

5. Policy should drive programmatic and spatial design

Perhaps one of the most startling observations from the comparative review of these three courthouses is the lack of a shared vision within the justice sector and between the justice sector and central agencies of government regarding what constitutes a courthouse. In the absence of this fundamental policy direction, specific courthouse program and design decisions are made independently for each construction project, often reflecting local planning priorities rather than a broader vision of what a courthouse should be.

As an example, at the time the Ottawa courthouse was being designed, the government of the day was focused on the idea of customer service and one-stop shopping. It was deemed appropriate to include non-traditional services in a courthouse. It is very clear from the dialogue with the judiciary in Ottawa that this model is no longer desirable, particularly in environments of fiscal constraint. The Hamilton and Brampton courthouses were designed as purpose-specific buildings restricted to the delivery of justice services. However, Brampton reflected a fully consolidated model while Hamilton preserved a separate facility for family Court. In another courthouse project in Ontario, the courthouse was designed to share space with the local municipal police headquarters, which raised serious concerns among the judiciary and other participants regarding the impact of this type of design on the perception of the independence of the judiciary and the court process.

The Brampton and Ottawa courthouses, facing acute space pressures, are bereft of an approved occupancy framework that would drive decision-making on a principled basis with respect to relocation of some existing functions to permit additional courtrooms and core functions to operate at an optimal level. The Brampton example of a failed attempt at the staff level to relocate the court brief supporting function highlights the utility of having a policy document to shape building specific decision-making. Ottawa is currently facing a similar issue, having identified the need to re-claim the large space occupied in the courthouse by a Probation and Parole Area Office.

The types of services that should be present in a courthouse to support the adjudicative function and meet the needs of the public need to be made plain, according to the vast majority of those interviewed for this study. The questions of whether to include a central information desk, a child care center, an ATM machine for the public, amenities for jurors, or self-help areas for the unrepresented are all examples of concepts that need to be thought through in a policy framework.

6. The concept of consolidation is laudatory

All participants in the study support the notion of consolidated courthouses. While there has been some discussion regarding the threshold at which a consolidated courthouse becomes “too big,” none of the participants felt that the administration of justice would be better served through a non-consolidated courthouse model. In Brampton, some of the judiciary supported a separate consolidated courthouse for each of the large cities in Peel Region – Brampton and Mississauga – but the overall model of consolidation was generally preferred.

While all of those interviewed laud the advantages of a consolidated courthouse model, many would argue that more thought needs to be given to conditions where

variations on a fully-consolidated model would be appropriate. The example of family Court is one that is often cited. Across the three court sites selected for review, there are differing approaches to family Court and no apparent consensus among the various justice sector participants regarding the optimal location of this specialized court. Precisely because of this lack of consensus and the space issues in a courthouse like Brampton necessitating the removal of certain family-support functions, the comparison would suggest that a policy decision about the future placement of the family court within consolidated courthouses should be made.

Moreover, all of those interviewed cautioned against making broad generalizations about all new construction possibilities. Distinctions, they argued, must be made between large urban settings and other settings. As an example, consolidation of all practice areas and both levels of court would never be a practicable option in Toronto. Distinctions between high growth areas and those regions and sites experiencing stagnant or no growth scenarios also must be made.

7. Space pressures outside the courtrooms are at least as significant as space pressures concerning the courtrooms themselves.

Policy and program pressures are growing in significance for the courthouse. Governments introduce new initiatives and rules committees consider changes that have a direct impact on courthouses. The increasing number of self-represented litigants places new demands on courthouses that were traditionally designed based on the assumption that most litigants are represented by counsel. Many of these pressures are for improved information services, settlement conference and informal meeting spaces, and program areas other than courtrooms. The architectural assessment reveals that the recent design revisions to each of the three courthouses focus on these types of support spaces. Particularly in Brampton and Ottawa as part of the JDRI, the construction of additional courtrooms is accompanied by requisite space for judicial

chambers, larger and reconfigured space for Crown case management functions, additional V/WAP space and expanded Court Services staffing.

8. Increased use of technology would have a profound impact on the design of courthouses.

Many current administrative processes are premised on minimal use of standardized technology. Vertical file management, or criminal case management, is an approach used in some variation in both the Brampton and Ottawa Crown Offices. The objective of this administrative approach is to minimize the number of crowns, whether solicitors or trial lawyers, interacting with the Crown Brief. The protocols developed set out the relationships between the Police Bureau or Crown support function and the office of the Crown. The systems, which have some automated portions, are essentially manual with large requirements for filing. The requisite adjacencies, which are legitimate, require geographic proximity given the absence of technology.

Both offices experience difficulties with the tracking of documents and would be helped greatly by an automated tracking system.

The law libraries in the three courthouses contain libraries for the private bar. Many participants would agree that there is a necessity for the inclusion of library space within the courthouse. The libraries also contain computer terminals. Some would argue that the space requirements could be modified with increased reliance on technology.

Many pointed to the need for consideration of technology-supported information services to the public as well as the placement of terminals in the courthouses.

9. Organizational culture has a significant impact on the functionality of a courthouse.

Organizational culture, whether positive or negative, has a significant bearing on the functionality of a courthouse. Participants in the Ottawa and Hamilton site visits described their organizational culture as cohesive, positive and solutions-oriented. Moreover, they could describe a very real sense of community. This type of collegiality informed the development of certain administrative processes. In addition, this sense of community was helpful in problem resolution within the courthouse.

Participants in the Brampton site visits pointed to the transient bar as a barrier to effectively implementing improvements to processes within the courthouse, particularly with respect to criminal cases. While individual participants appear dedicated to providing excellent justice services, there was a lack of cohesiveness in Brampton that was apparent at the other two sites. This organizational culture expressed and expresses itself in a number of ways; some participants noted something as seemingly trivial as the lack of an updated building phone directory of staff working in the building; some participants noted local police charging policies that reward the volume of charges laid without regard to ultimate disposition; the extremely low uptake of video remand in Brampton when compared to other sites in the province; on-going tension between the correctional facility, police and judiciary regarding the transportation of in-custody accused to and within the courthouse; and the apparent tension between the Crown Attorney's Office and local defense bar, culminating in the dispute over the allocation of space in 2004.

Given that consolidation brings together participants who have not shared space in the courthouse before, several participants argued for the establishment of a permanent structure after the construction of a new courthouse to bring the variety of participants together on a regular basis and provide an opportunity to share information

and discuss issues related to the overall operation of the courthouse. Participants at each site indicated that a variety of committees in the courthouse met on specific issues, most prominently noted were the Local Criminal Justice Committees. However, there is no consistent forum bringing together participants from all practice areas – civil, criminal and family – to understand pressures and issues affecting all occupants in the courthouse.

10. The judiciary is responsible for courtrooms; there is no clear accountability for courthouses.

A number of process refinements have been implemented to ensure judicial input to planning processes for both new construction and renewal funding. However, it is not clear who is accountable for the overall functioning of the courthouse. While the courts' administrators are given responsibility to resolve issues and support the adjudicative functions, they are not seen to have the authority to make the most difficult decisions regarding space allocation among program areas. Most of the judiciary and users are frustrated by the functional space-related issues they face in Ottawa and Brampton, and speak to the need for greater clarity in role definition.

11. Processes must be transparent

Few participants at the three sites could detail the processes for planning new court construction or repair and renewal projects. All participants called for the need for more transparent decision-making about accommodation. The judiciary and the court administration staff were the most knowledgeable about capital-related planning and decision-making processes. Nonetheless, they and others still would argue that parts of the processes are opaque and must be made more transparent. In particular, there is a perceived lack of information and feedback regarding the development of project priorities by the corporate offices within the MAG and a lack of coordination between Divisions where competing demands for space within the courthouse may

be at issue. Many of the judiciary believe that significant improvements can be made by them and MAG leadership to refine the priority-setting criteria and processes associated with issue identification and prioritization.

12. Functional concerns must be addressed

In addition to the absence of a policy framework to guide individual decisions regarding courthouses as discussed above, it is apparent that there are significant differences in approaches to key features of the three courthouses studied, and in fact other courthouses recently constructed or being planned in Ontario. While a comparative review of the Brampton, Hamilton and Ottawa courthouses reveals numerous features that are consistent between the sites, there are a number of variations in core features:

Security

The issue of security in courthouses has been the topic of much discussion and review over the past decade. With an increasing number of violent incidents in the United States, the unique requirements for security in a courthouse need to be examined. In the three courthouses studied, a wide variation in security provisions was evident. This appears to be the result of a lack of a consistent policy or standard for courthouse security, combined with the role of local municipal police forces in executing their responsibility to provide security in the courthouse.

Variations in the type of security provided in each courthouse was perhaps most noticeable at the public entrance to each building. Both Brampton and Hamilton have airport-style security at the front entrance. Only Brampton, however, includes equipment to X-ray the contents of handbags and briefcases as the public enters the building. Both Brampton and Hamilton use magnetometers at the public entrances. Hamilton provides security at two public entrances while Brampton is restricted to a single public entrance. In Ottawa, there is no visible security upon entering the building and four public entrances are available.

Public information

Another critical function within a courthouse for which there appears to be no consistent approach is the provision of information about the services available to the public both within the courthouse and through related community services. Only Brampton provided a centrally-located information desk. Ottawa was in the process of building a limited-purpose information desk. Participants in Hamilton also identified the need for this function.

Courtroom configuration

While the MAG Architectural Design Standards articulate the standard layout for a courtroom, it is generally acknowledged that each courthouse will require some variation in the size and layout of its courtrooms. However, there are many features of a courtroom that should always be consistent between courthouses. A number of variations were noted in the Brampton, Hamilton and Ottawa courthouses. These included the location and size of the prisoner's box, configuration of the dais, provision and location of electronic evidence display equipment, and provision and location of video remand equipment. It was also noted that the design of small motion rooms should be reviewed, given the limited flexibility that these spaces have for hearing many types of cases.

Jurors' facilities

There is no consistent treatment of the spaces attributed to jury selection in the three courthouses. Brampton allocated the most space to this function and the design of the second floor reflects a particular model to facilitate jury selection. In both Hamilton and Ottawa, the jurors' lounge appears to be almost an afterthought. The jury deliberation rooms in Brampton and Hamilton reflect current MAG Architectural Design Standards. The Ottawa jury deliberation rooms are less well-equipped.

A number of public questions arise with respect to the treatment of jurors exercising their civic responsibilities, both during jury selection and once a citizen has been chosen to serve on a jury. Issues such as access to hot food, the Internet and other diversions while awaiting jury selection should be dealt with consistently in every courthouse, rather than left to local variation.

Parking and public transit

The provision of courthouse parking appears to be related directly to site selection and access to public transit. There is no policy or standard, however, that stipulates the type of parking that should be provided as a matter of access to justice. If parking is to be provided, there must be standards in place to address the type of parking that should be available, including provisions for security. Courthouse site selection in a large regional setting should also take into account access to regional transit systems, not just local access. In the case of Brampton, access to local city transit does not take into account the high number of courthouse users from Mississauga, the sixth largest city in Canada. While public transit within Brampton and Mississauga may be good, access between the two cities appears to be more challenging.

Access to vertical circulation

In the three courthouses studied there are different provisions for staff and the public to move throughout the building. While circulation systems will always vary based on overall building design, most participants noted that the ability of the public and staff to move between floors has a significant impact on the efficiency of work both within the courtrooms and general administrative areas. A preference for access to stairways rather than reliance on elevators was noted. The need to provide good access to vertical circulation should be a fundamental design consideration for all new courthouses.

While it would be simplistic to suggest that there can be one courthouse design that would fit all communities, a better balance between a common vision and policy framework for courthouses in Ontario and ensuring flexibility to meet local requirements and needs must to be achieved. Participants in this study are arguing that a policy framework would speak to the types of issues noted above and establish some fundamental features that would not vary across new courthouses. Limits, then, would be placed on the types of questions put to local users.

8

KEY THEMES FROM MEETINGS WITH PROVINCIAL ORGANIZATIONS

The consultative process was designed to include meetings with provincial organizations and corporate staff units familiar with courts and their operations. It is important to bear in mind that representatives from the judiciary and the various stakeholder groups¹ were interviewed at the three consolidated courthouse sites in Brampton, Hamilton and Ottawa. Nonetheless, the opportunity was afforded to the judiciary and these other entities to present a corporate or provincial perspective. What follows is a summary of the key themes expressed by the judiciary and others.

8.1 The judiciary

In another section of this report, mention is made of the perceptions of the judiciary with respect to the capital planning processes associated with the construction of consolidated courthouses. When meetings were held with the executive of the Ontario Court of Justice, issues similar to those expressed by the judiciary in Brampton, Hamilton and Ottawa were raised, including the need for an articulated vision of courthouses to drive all future planning and for clear principles that would drive all future occupancy discussions. Other issues included discussion of the consolidation model, a host of functional concerns, and serious reservations about current capital planning processes.

When asked to comment on the facilities renewal planning processes, judges could easily describe the existing processes used for needs identification, and priority-setting. They felt, however, that there was a lack of transparency with

respect to corporate approvals and concomitant feedback on the status of projects to be implemented. Many judges held the view that the processes emphasize regional balancing. In other words, there is a de facto prioritization across all the regions. In the minds of many, such an approach should be replaced with an allocation process based on need and a set of high level system priorities.

With respect to renewal projects, usually the only capital allocated to regions, the process is long and cumbersome and involves many parties. Many judges said that resources are often expended to extend the “shelf life” of a building, where the building is wholly inadequate. Such expenditure appears wasteful and less than optimal in terms of desired outcome.

8.2 Unions and organizations representing public lawyers

While issues raised by these groups mirrored those expressed by crowns, a number of particular matters were identified.

The associations representing civil and criminal Crown Attorneys were an experienced group. Many argued that there ought to be a set of minimum architectural standards that apply across all courthouses. They would suggest that some principles need to be developed around courthouse occupancy.

Ontario Public Service Employees Union (OPSEU) representatives argued that planning processes, particularly those for existing spaces, ought to include union representatives.

¹ See Appendix B for a listing of the provincial organizations.

8.3 The private bar

Many lawyers practicing in the private bar expressed the view that the architecture of a courthouse ought to reflect the respect society holds for the rule of law. The buildings ought to convey a sense of majesty and reflect the serious and fundamental nature of the proceedings inside. They find it unacceptable that we have courthouses today located in such places as shopping malls.

As is described in the section of this report dealing with stakeholder perceptions at the three consolidated courthouses, the provincial bar representatives are concerned about the apparent disregard during courthouse construction planning and decision making cycles for expansion space. The newer courthouses, when built, barely met the needs of the day and rapidly outgrew them. In addition, the planning process is seen to be too lengthy. Some lawyers, concerned with the narrow definition of users, argued that the public ought to be represented directly on Users' Committees.

Many bar members felt that the government of the day ought to consider public/private-financing partnerships to better deal with the need to build for surge capacity in the short term.

Representatives from Legal Aid Ontario suggested that there was a flaw in the nature and approach to data collection for functional requirements. Rather than gather groups with self-interest to summarize their key needs, it was argued that:

1. There ought to be a set of a priori matters that are not up for public debate regarding best practices in courthouse design; that such up front policy considerations would be articulated by the Attorney General and would serve as a set of givens for any users' group.
2. Functional design ought to emanate from the flow of the paper associated with each business line.
3. The needs of the public ought to be captured in a very direct manner.

On the matter of the occupancy model, provincial representatives of the private bar hold strong views that all courthouses ought to contain space for county law associations and law libraries. Their argument is based on the notion that the association space is devoted to discourse between affected parties' counsel and is part and parcel of the dispute-resolution process. The presence of the libraries was considered crucial in terms of counsels' ability to respond quickly and expeditiously to requests from the judiciary. Many conceded, however, that space could be curtailed given the evolution toward computer usage.

Members of the bar expressed serious concerns about the relative state of security across all the courthouses in Ontario, matters of access, poor signage, in many cases poor facilities for the disabled, and the serious issue of lack of sharing of courtrooms between both levels of Court. For example, lawyers would find timetabling issues with court space for the Ontario Court of Justice when faced with what appeared to be a surfeit of space available in the Superior Court of Justice.

8.4 Criminal Law Division

Lawyers from the Criminal Law Division said while they are a major player in the courthouse, their voices are seldom heard in the courthouse planning process. They believe the locus of responsibility for gathering data and providing synthesis of functional requirements has gravitated to the Court Services Division of the MAG. If pressed about where the final authority for determining the future vision of courthouses in Ontario ought to reside, they say the judiciary should have a strong but not final role.

Location decisions are also problematic. The crowns are more than aware of the nature of political processes in ultimately determining the location of courthouses.

They go on, however, to cite examples such as Peel where, given the fact that Brampton and Mississauga are very large, two courthouses should have been built in the region. In Halton region, they would suggest that there ought to be a smaller courthouse built in Oakville to deal with the large demands being placed on the region. These location decisions are being suggested because there appears to be such congestion and pressure on sites like Brampton, where the courthouse, upon completion, barely met the demands placed upon it.

With respect to consolidation and models, the Division expressed the view that certain lines of business with their associated complexity warrant special-purpose buildings, especially in large urban centers. In Toronto, they would argue, it would be wise and prudent to have a separate criminal justice wing, or suite.

Discussion was held regarding appropriate occupancy models. The crowns are fully aware that many of the private bar and some considerable contingent of the judiciary hold the view that only a minimal Crown presence is required in a courthouse. That argument is often based on the notion that the Crown represents one of the major litigants and that, on the basis of fairness, all or none of the litigants should be in a courthouse. In response, the Criminal Law Division refers to the *Crown Attorney's Act*, which reinforces that crowns are

“not just litigants; their role is quasi-judicial, they protect the rights of victims and the accused and help to guide the processing of a case through the justice system.” Further, the need for case management is such that it ought to be embedded in the courthouse to maximize efficiency and effectiveness. Such case management, from the perspective of the Division, would require the physical presence of the Police Bureau to maintain the integrity of the “Crown Brief.”

The issues raised at the corporate level regarding new court construction mirror the comments received from Crown

Attorneys at Brampton, Hamilton and Ottawa. The Division's comments can be summarized as follows:

- General approach to planning
 - Δ More transparency is required regarding the nature of the decision-making process.
 - Δ Key decisions need to be communicated back to the users.
 - Δ There does not appear to be a level playing field with respect to the influence of players as represented in the Users' Committees.
- Principles driving the planning process
 - Δ The current approach to predicting future growth is wholly inadequate; there is an awareness that current planning models are often the victim of economic and political exigencies that ultimately dictate the size and scope of the future building.
 - Δ There ought to be principles driving the occupancy model.
 - Δ There should be a forum for synthesis of the priorities across all the Divisions of MAG.
- Suggestions for planning process reform
 - Δ The Ministry ought to have an accommodations committee with representatives from all Divisions, as existed in the past.
 - Δ The Division's Management Committee mandate ought to include facility issues, and serve as a conduit to other Ministry committees.
 - Δ The facility renewal priority-setting process ought to be reviewed to ensure that there is equitable treatment across all business lines and areas.

8.5 Ministry of the Attorney General- Court Services Division

As was expressed in the three consultations at Brampton, Hamilton and Ottawa, Ministry of the Attorney General administrators believe that the current courthouse planning system's most serious flaw is the absence of an overarching vision document, setting out principles and desired long term outcomes.



While there exists a detailed set of architectural standards, they do not constitute policy regarding appropriate occupancy or appropriate approaches to consolidation. Difficult questions, like the inclusion or exclusion of family law in a consolidated site, need to be addressed through policy, not standards. Future work will be required to determine if there is a size threshold for consolidated sites. In some instances, consolidation of all business lines has led to duplication of services and space. In the absence of over-arching vision and policy for a courthouse, local Court Managers are left to sort out critical space issues and to broker among the various participants.

The exponential growth of central agency players has merely compounded the need for clarity respecting roles and responsibilities in the complex planning processes associated with both new construction and facilities renewal projects in the justice system.

The planning process needs to be enhanced by providing detailed terms of reference for Users' Committees and establishing, a priori, what is up for discussion and what is not. Moreover, the Users' Committees should be viewed as fora for input, not sign off. Administrators will frequently cite the need for flexibility in a courtroom, or the inadequacy of current motion rooms, as subjects that have been much discussed and that are on the radar screen of the judiciary and other courthouse users. They are of the view that such issues need to be clarified up front with a policy statement and ought not to be reviewed time and again when new Users' Committees are established for large new construction projects.

The matter of the occupancy model is perhaps the most vexatious and contentious from the court administration perspective. There appear to be no principles governing who ought to be in a courthouse, nor are there principles determining who ought to be vacated when space pressures exist within a facility.

The Manager of Court Operations is usually given the task of sorting out the space pressures without the authority to affect major relocation decisions. While this approach may appear to be reasonable at the outset of a project, problems arise midway when Cabinet or Management Board may decide to downsize the original courthouse footprint significantly. At a point where there may be a significant reduction in size, and court management may ask questions regarding occupancy and impact on functionality, central agencies respond that "there is no appetite to revisit occupancy." As a result, there is no substantial rethinking of core functions or core business lines to be consolidated. Rather, from the perspective of many of the players, what does occur is a pro-rated downsizing of space that results in acute space pressures and service dysfunctionalities from the minute the new building is opened.

With respect to core functions, the general view of court administration is that regional offices ought not to be located in courthouses. Moreover, certain police functions, such as fingerprinting and DNA sampling, belong in police stations, not courthouses.

The court administration function has serious concerns about the ergonomics of counters and facilities used by the court administration staff. Many current standards are out of date and space is seen to be woefully inadequate.

The facilities' renewal processes are clearly understood by court administration staff. In the main, they believe that crowns and police are quick to identify their space and renovation concerns. Their process concerns can be summarized as follows:

- The crowns and V/WAP use a separate process for facilities renewal. As a result, their requests may not be aligned with Court Services Division's requests for the same building and space.
- Most judges concentrate on chambers and courtrooms yet are often given sign-off responsibility for the whole of the buildings.
- There is inadequate information about lease renewals for court administration staff, putting them at a disadvantage in planning and negotiating with property owners in leased facilities.
- Project approvals take so long that implementation time is curtailed.
- Newly built sites are rarely given renewal capital dollars because they are seen "to have won the jackpot."
- Sites with impending new construction are rarely given renewal resources necessary to keep the existing facility functional until the final decisions are made about the major new capital project.
- There is a serious lack of communication and/or coordination with the Ontario Realty Corporation that is exacerbated by the rule that the Facilities Management Branch is the official interlocutor between the client division and ORC. This may work at the level of head office, but it appears to break down in the field where there is much closer liaison with ORC and ProFac, the designated contractor for the Ontario Realty Corporation.
- The managers in the field, in response to a perceived lack of timely handling of operating concerns by the Facilities Management Branch, have hired dedicated facilities liaison staff to help in accelerating the implementation of facilities renewal projects, and gathering and sharing basic facilities information.
- There is a Memorandum of Understanding between the Facilities Management Branch and the Court Services Division that lays out roles and responsibilities and thresholds for delegated authority. Staff contend that the threshold of \$50,000 for projects that fall within the exclusive domain of the field is simply too low and impractical.

- There does not seem to be clarity about the types of costs that the Ontario Realty Corporation will absorb and those that must be absorbed by the Division or, put another way, the appropriate distinction between program costs versus building costs.

In short, operations managers in the Court Services Division feel an investment in the development of an operating policy framework is necessary to mitigate the types of issues that have been detailed to date. Such a policy framework would lay out courthouse-user roles and responsibilities of and clarify those types of essential data that are required for the efficient running of a facility (e.g. assets management data and lease data), leading to rethinking of certain types of policy and financial thresholds. While current operations managers are precluded from speaking directly with the Ontario Realty Corporation, those very same managers are responsible for stakeholder and issue management. They are placed in a position where they are expected to be responsible for resolving issues but are given neither the tools nor the authority to carry out their stated objectives.

On a more macroscopic scale, the court management function would like to see a policy paper delineating the desired approach for consolidation and the permutations and combinations that would be optimal under varying sets of circumstances, the principles of occupancy that would determine “best and highest use” of space, and the rules of engagement for Users’ Committees.

8.6 Ministry of the Attorney General – Facilities Management Branch

The Facilities Management Branch (FMB) is the voice of the client for the Ontario Realty Corporation. In the simplest terms, it is expected to speak for the functional plan and liaise with ORC and any other central agencies dealing with space and facility matters. The consultations conducted at the three consolidated sites included the presence of an FMB architect. The issues below were mentioned at all of the consultations and mirror comments listed above.

- The FMB would be helped by a set of vision statements about consolidation and occupancy and with a set of overarching principles that together would serve to embed the Architectural Design Standards in an appropriate context.
- There needs to be a differentiation in planning for specialized courtroom and adjudicative space versus generic administrative/office space. This point was underscored in an interview with a senior official with the Ontario Realty Corporation who indicated that ORC expertise lies in generic office space but not special purpose buildings such as courthouses.
- Planning efforts are seriously compromised by inadequate funding.
- Some stakeholders are less willing to work cooperatively on facilities issues.
- Central agencies are not fully aware of the unique characteristics associated with an independent arm of government (namely the judiciary) and the complex set of justice partners that are, perforce, involved in planning processes.
- The Ministry and the justice sector do not appreciate fully the role of the FMB, which is not in the business of space allocation.
- It is crucial to develop a set of guiding principles to inform the occupancy model to be used for each courthouse.
- Current users tend to argue for preserving their current allotments of space and begin to see these as “entitlements.”
- The issue of security is a serious matter that will need to be dealt with in the future.
- Courts often have difficulty articulating their program needs in a timely and accurate manner. In addition, their requirements change frequently.

8.7 Ministry of the Attorney General - Ontario Victim's Services Secretariat

The Ontario Victim Services Secretariat has a mandate to, among other things, advocate for the needs and concerns of victims within the criminal justice system. In the eyes of the general public, the criminal justice system's response to victims' needs and concerns is at least of equal importance to those of the accused when assessing the effectiveness of the criminal justice system as a public institution.

Following 1989 Criminal Code amendments to establish a victim fine surcharge, a series of code amendments have been made to continually strengthen the rights or entitlements of victims within the court process.

In Ontario, an early part of the policy & program response was to establish the Victim/Witness Assistance Program. The OVSS believes that V/WAP should be a core occupant in the courthouse in order to meet the needs of the most vulnerable members of the public, the victims who participate and have an interest in the criminal court process. Rather than shuffling victims among multiple sites, they should be able to attend a single place - the V/WAP program office in the courthouse - in order to receive the program's services, be interviewed by the Crown Attorney in preparation for their testimony, as well as await their call to testify.

In addition the OVSS believes greater attention should be paid to victims' needs beyond the V/WAP program space. For example, the number and location of CCTV facilities for remote testimony for vulnerable victims needs to be specifically addressed when planning courtroom spaces. In large, multi-story courthouses, several additional secure and dedicated victim waiting areas may be required in addition to space within the V/WAP office in order to minimize delays in court proceedings. As well, the placement of both V/WAP and other victim waiting areas in the courthouse should be designed to minimize their proximity to or cross over with the accused and their family, except in the courtroom.

In terms of the facilities planning process, there should be a return of some type of Ministry-wide accommodations committee that includes representatives from all of the major operating divisions of the Ministry. As well, it must be recognized that V/WAP and general victims' space requirements grow in direct proportion to growth in criminal caseloads. Accordingly, planning assumptions driving growth forecasts for the judiciary, criminal courtrooms and crown attorneys should be shared with and applied equally to the V/WAP program.

8.8 Other ministry justice partners

The Ministry of Community Safety and Correctional Services/Ontario Provincial Police

The Ministry of Community Safety and Correctional Services is concerned principally with the criminal justice system and its role in prisoner treatment, rehabilitation, and transportation. The Ministry acknowledges the perception that the prisoner management system is highly problematic and has tried a variety of refinements to ameliorate perceived delays and interruptions.

The Ministry would argue that there must be an interministerial forum where intersecting policy interests, issues and challenges affecting operations and facilities can be presented and where systemic approaches are developed and recommended for implementation.

Ministry representatives identified a number of matters that could be labeled policy and operations issues requiring clarification:

- Occupancy rules for new courts
 - Δ One item requiring policy deliberation is whether regional offices for parole and probation ought to be located in courthouses and, if not, why. Another might be the ideal location for case management currently involving the Crown Attorney's Office and the Police Bureau.
- Approach to video surveillance
- Most police forces not seeing security as their key function or area of expertise

The current prisoner-transportation system is highly varied across the province. There are a number of players. It is unclear as to who is responsible for what, and under what circumstances. Results vary widely. Some stakeholders have suggested that the Province create an agency with the mandate to deliver appropriate and timely transportation services to the courthouse system. Where inter-ministerial cooperation is required, processes would be into place to create incentives for such cooperation and rationalization.

The significant increase in the number of remand prisoners in the current corrections system begs for a number of research projects to uncover not only the factors affecting the increase, but also the impact it has (and, indeed, ought to have) on the courthouse system.

Ontario Provincial Police respondents indicated a concern about the absence of provincial training standards for Special Constables, the staff dedicated to prisoner handling, transportation within the courthouse, and security for the courthouse. The O.P.P. expressed concern that video remand is being resisted outside the large urban centers. This is important to underscore because video remand was one of the assumptions underpinning the construction of super jails.

The Ministry of Children and Youth Services

From the perch of the Ministry of Children and Youth Services, an argument might be made that current court facilities do not meet the needs of children and families, who are especially vulnerable. Space, on the whole, is inadequate, overcrowded and poorly conceived in terms of what families need. It was

suggested that the planning processes be refitted to include, as a basic operating principle, that all analysis of client flow and work flow be conducted from the perspective of client need. In this case, focus was being brought to the family justice arena. Representatives of the Ministry would suggest that the space configurations would vary across the province, subject to local conditions and need.

8.9 Central agencies responsible for realty and asset management and construction

Ontario Realty Corporation

Representatives observed that the agency's expertise is in general administrative and office spaces. Key executive account teams have been established but there is a realization that such teams must include specific court experience and background for positive outcomes to occur.

Some ORC representatives argued that there must be a direct relationship between the agency and the client (namely the Court Services Division) in addition to the presence of the Facilities Management Branch. Moreover, measures are required to continue developing processes that encourage the transfer of knowledge about the business of the courts.

ORC indicated that, in the past, it had tried to create Deputy Ministers' Committees to deal with facilities at the systemic level. Such attempts had not succeeded in the past. Nonetheless, representatives argued that new approaches were required to encourage system-wide discussion of major capital initiatives, and cluster discussions within the justice system. Some also stressed that government-adopted principles are necessary for the right accommodation to be built.

The Ministry of Public Infrastructure and Renewal

Representatives of P.I.R. suggested that a broad vision needs to be articulated for courthouses. Currently, one might observe that the needs of the accused are not taken into account and that, overall, litigants get lost in the planning process. Such a vision would speak to the desirability of consolidation with a set of approaches being offered as useful clusters of adjudicative matters that make sense in local circumstances.

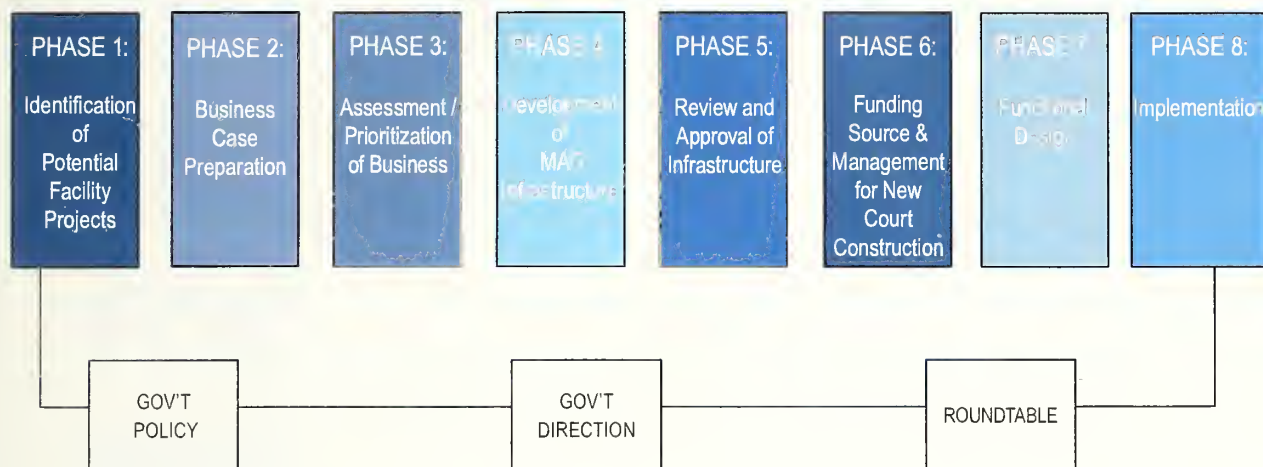


CAPITAL PLANNING PROCESSES

The preceding chapters of this report focus on the relationship between planning, process, and courthouse functionality as revealed by an examination of three consolidated courthouses in Brampton, Hamilton and Ottawa. This chapter and the next focus on a review of province-wide capital planning processes for courthouses in Ontario. Through extensive interviews with members of the judiciary, regional court management teams, representatives from the Crown Attorneys offices and central support and policy officials in the Ministry of the Attorney General, a great deal of information was amassed about both the planning and administrative processes underpinning courthouse capital.

The construction, development and operation of new courthouses and the renewal of existing facilities dedicated to the delivery of the Ministry of Attorney General (MAG) justice programs require a complex and integrated effort among many players. In a simplistic sense, the Government of Ontario provides the policy backdrop and direction regarding land use, site selection, financing and resourcing. The Ministry, then, is seen to be the voice for the justice system. It seeks the input of the judiciary and its partners through a lengthy consultation process. MAG, taking into account the policy guidelines from the Ontario Realty Corporation (ORC) and the Ministry of Public Infrastructure Renewal (MPIR), sets out its requests in priority order and consolidates them in an annual five-year infrastructure plan, which is reviewed and considered by Cabinet.

MAG delivers the province's justice mandate through a number of Divisions. In addition to its direct business lines – criminal prosecutions in right of the Crown, and administration of the courts - it also delivers the Victim/Witness Assistance Program (V/WAP) on behalf of the Ontario Victims Services Secretariat. Its Facilities Management Branch, within the Corporate Services Management Division, creates the annual infrastructure plan in conjunction with both its program area client Divisions. The following graphic depicts the courthouse capital planning process.



PLANNING PROCESS PARTICIPANTS

JUDICIARY
 COURTHOUSE USERS
 MAG: CSD, CLD, FMB, V/WAP
 ORC
 MPIR
 FINANCE
 MANAGEMENT BOARD
 TREASURY BOARD
 CABINET

The administrative and political processes associated with decisions about building new courthouses, or repairing, refurbishing, or enhancing existing courthouses, is complex and lengthy. Some argue that the processes have been made all the more complicated as recent governments in Ontario have sought to come to grips with huge infrastructure needs across the “capital Ministries” of Health, Attorney General, Education, Colleges and Universities, Northern Development and Transportation in a severely constrained resources environment.

Within the last 10 years, Governments of Ontario have contemplated new approaches to the financing of public goods through such vehicles as public-private partnerships and alternate financing methods. As well, these governments have developed policy on land use, brown belt and green belt sites. For example, the current Government has promulgated the Provincial Places to Grow Act and the land use policy entitled Places to Grow Plan for the Greater Golden Horseshoe. One such approach is the use of public-private partnerships which has also spawned policy on “willing hosts” to offer sites, and new methods of financing.

It is within this bubbling policy cauldron that the Ministry of the Attorney General advocates for precious capital dollars to be allocated to its priority areas.

The Ministry gets involved in four types of undertakings:

1. Court construction

- Capital funding used for the replacement or construction of a new “asset.” Some examples are: the construction of a new building or the complete refurbishment of an existing building.

2. Facilities Renewal – Strategic Investment in Existing Courthouses

- Capital funding used to extend the useful life of an asset beyond base building criteria. These are usually large scale initiatives that involve complex design and/or technical solutions.

3. Facilities Renewal - Repair and Rehabilitation

- Capital funding used to extend the useful life of an asset beyond base building criteria. These are usually smaller scale initiatives designed to maintain the existing inventory of assets.
- Capital funding in this category is allocated separately to the Court Services Division, Criminal Law Division and Victim Services Secretariat.
- Within the Court Services Division, projects are distinguished between those valued at under \$50 thousand and over \$50 thousand. Capital projects under the threshold of \$50,000 are generally managed by Court Services Division (CSD) under the terms of a Memorandum of Understanding with the Facilities Management Branch (FMB). Capital projects over the threshold of \$50,000 are managed by the FMB.

4. Initiative-specific capital projects

- From time to time, the Ministry may sponsor in-year program initiatives that have implications for facilities (e.g. Justice Delay Reduction Initiative, that have received resources to enhance complement for the judiciary and crowns, with attendant space requirements.)

The phases of decision-making

There are eight sub-processes relevant to this study. Participants vary across these processes as a function of their formal roles and responsibilities.

The following chart identifies the various participants involved in the capital planning process.

9.1 Phase 1 - Identification of facilities issues in Ontario courthouses

TABLE 11*



PHASE 1

Processes	Participants
REPAIR AND REHABILITATION:	
Courtrooms	• Judiciary
V/WAP space	• Victims Services Secretariat
Crown space	• Criminal Law Division
Other space	• Judiciary, court managers, users
COURT CONSTRUCTION:	
Need for new courthouse or major refurbishing of existing facility	• Judiciary, community, MAG, police, the public and private bar

DESCRIPTION OF PROCESS

Within the repair and rehabilitation capital sphere, three concurrent exercises are launched annually to identify facility requirements in courthouses:

- 1) Local Crown Attorneys aggregate any facility issues relating to their dedicated space in a courthouse and forward them to the Criminal Law Division.
- 2) V/WAP essentially does the same and forwards any facility issues to its corporate offices in the Victim Services Secretariat.
- 3) Court Services Division is responsible for collating and aggregating all facilities renewal issues exclusive of Crown and V/WAP space. The Division practice across all regions for such issue identification appears to be as follows:
 - Continuous dialogue with the judiciary and other courthouse users. This input may be derived through a number of mechanisms, including through established local committees such as bench, bar committees, facilities or criminal justice.

* Information provided by Facilities Management Branch.

9.2 Phase 2- Business case preparation

- Corporate attendance at the OCJ Design Standards Committee to keep abreast of facility issues.
- Managers of Court Operations (MCOs) develop business cases jointly with FMB describing their site requirements for their identified projects. These business cases are then forwarded to their respective Director of Court Operations (DCOs).
 - The Facilities Management Branch will offer technical support, if necessary.
 - Projects are categorized into 'Above' and 'Below' \$50,000.

Courthouse users do not identify large scale capital projects that affect the building systems such as HVAC. These items will be identified by ORC by the asset manager for all provincial assets. The court users identify their program/functional needs and deficiencies that will result in the need for facilities renewal (both small and large in scale).

Occasionally, the Ministry will develop program initiatives that have implications for space in Ontario courthouses. For example, the V/WAP program has grown steadily, with requirements for increased dedicated space in specified courthouses. Space requirements such as these may be aggregated in the issue identification phase of the annual infrastructure planning process, or may be identified as separate in-year requests.

With respect to facilities renewal, courthouse users would identify large capital requirements (e.g. HVAC overhaul or significant retrofit of an existing courthouse) in the normal discourse among the judiciary, the court managers, and users. On the matter of new court construction, the process of issue identification is a lengthy and multi-party process. The judiciary will often take the lead among community members to identify and consolidate support for a new courthouse. The private bar, and/or other users will often advocate publicly and politically. Alternatively, the impetus for new court construction may come from the Ontario Realty Corporation because of a forced lease re-location or another realty-based opportunity.

FLOW CHART 3

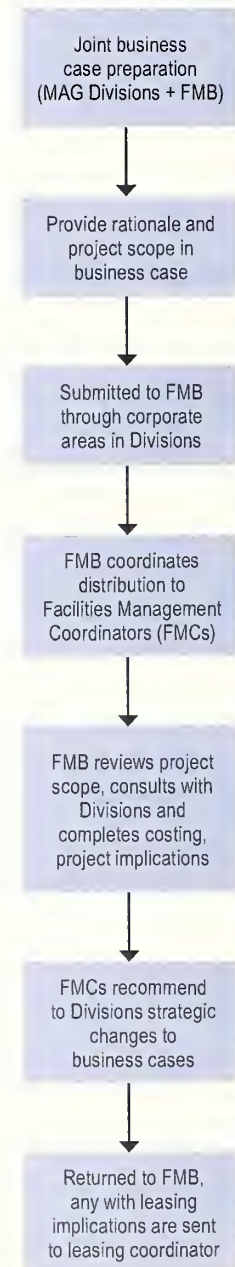


TABLE 12*

PHASE 2

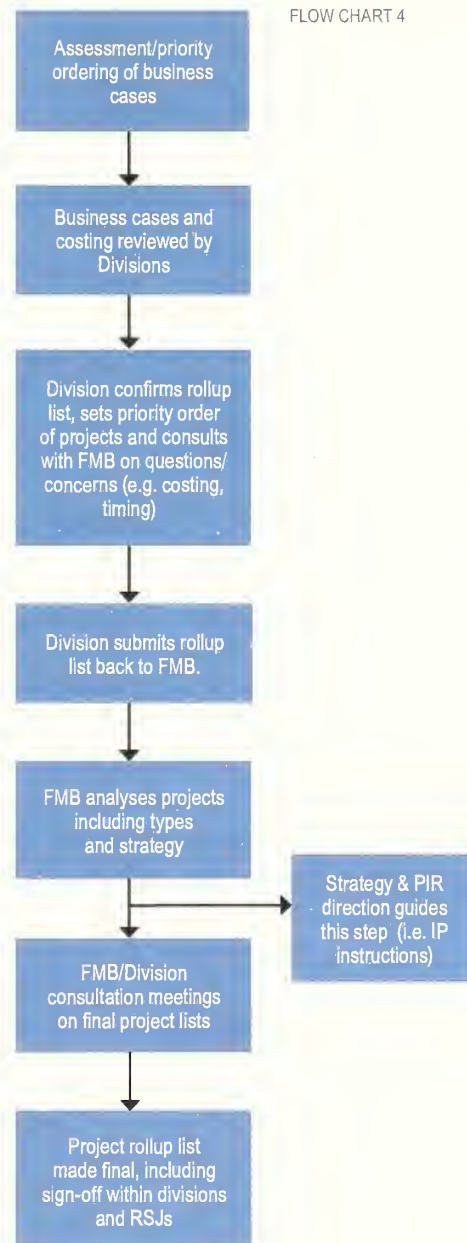
Processes	Participants
Provision of templates to line discussions	<ul style="list-style-type: none"> FMB
Development of draft documents	<ul style="list-style-type: none"> MAG Divisions <ul style="list-style-type: none"> Managers of Court Operations (MCOs), Directors of Court Operations (DCOs) Criminal Law Division (CLD) JUDICIARY <ul style="list-style-type: none"> Regional Senior Judges (RSJs)

DESCRIPTION OF PROCESS

- A template for business case preparation is provided to the line Division.
- Facilities Management Branch provides support to the regional facilities management coordinators and provides assistance regarding costing.
- The business cases are made final through an iterative process with all Divisions.

9.3 Phase 3- Assessment and priority-setting of business cases

FLOW CHART 4



PHASE 3

Type of Business Case

Participants

REPAIR AND REHABILITATION:

- DCOs, RSJs, Bench/bar committees

COURT CONSTRUCTION:

- DCOs, RSJs, Bench/bar committees

DESCRIPTION OF PROCESS

With respect to setting the order of priority for repair and rehabilitation capital projects, the following process appears to operate in all regions:

- Managers of Court Operations (MCOs) will discuss with the Local Administrative Judge (LAJ), the facility issues that have been identified to date. The degree of input from the LAJ may vary from location to location.
- Where local Users' Committees exist, facility issues may be discussed and prioritized.
- DCOs meet with their "Regional Seniors" - the Regional Senior Judges from both courts, the Regional Senior Justice of the Peace and the Regional Director of Crown Operations, to review the business cases attached to each project request. In addition, any court construction capital initiatives (new courthouses or major refurbishing) are also discussed at these meetings. A region's set of priorities is developed and forwarded to the Office of the Assistant Deputy Attorney General, Court Services Division.

The Facilities Planning Unit (FPU) of the Corporate Planning Branch of CSD executes the following tasks:

1. Consolidates signed-off regional lists for new court construction and repair and rehabilitation capital. There is an effort to ensure consistency across regions.
2. Creates a Divisional list with the following categorization:

- a) Courthouse construction/Facilities Renewal
- b) Repair and rehabilitation projects over and under \$50,000

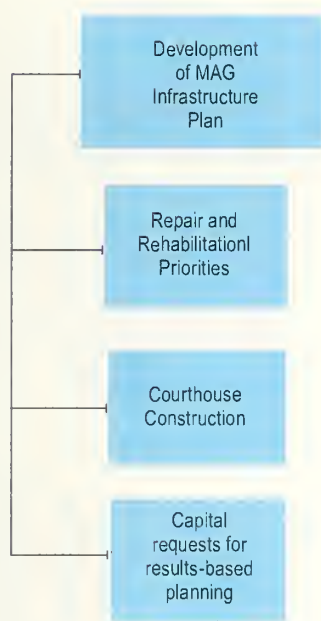
Factors on the Business Case Template taken into account are:

- Conformity with Ontarians With Disabilities Act
- Security matters
- Health and safety issues
- Justices of the peace needs
- Strategic initiatives such as: holding cells, Justice Delay Reduction Initiative (JDRI), and child protection and family court.

3. The Divisional list is presented to the Director, Corporate Planning Branch (CPB) with recommendations.
4. FMB analyses, provides feedback and jointly develops business cases with all Divisions.
5. Once approved by CPB, the plan is presented to the Divisional Management Committee for review and comment.
6. Finally, there is sign off by the Director, CPB as executive lead for facilities, and the Assistant Deputy Attorney General (ADAG), Court Services Division.

9.4 Phase 4- Development of MAG Infrastructure Plan

FLOW CHART 5



PHASE 4

TABLE 14*

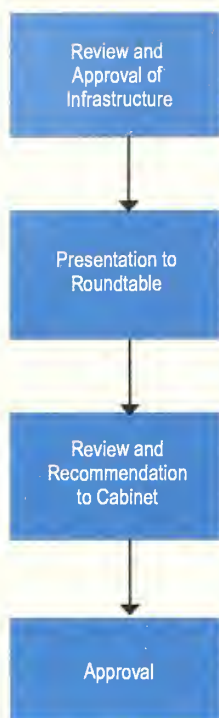
Sub-processes	Participants
Roll-up of repair and rehabilitation project requirements	<ul style="list-style-type: none"> Facilities Management Branch, All divisions including: <ul style="list-style-type: none"> Court Services Division Criminal Law Division Victims Services Secretariat
Roll-up of new court construction priorities	<ul style="list-style-type: none"> FMB
Aggregation of priorities across all Divisions	<ul style="list-style-type: none"> FMB Chief Administrative Officer, (CAO), MAG
Project roll-up of capital requests for results-based plan	<ul style="list-style-type: none"> FMB CAO, MAG
Preparation of infrastructure planning notes for inclusion in submission	<ul style="list-style-type: none"> FMB CAO, MAG
Sign-off by Deputy Minister and Minister	<ul style="list-style-type: none"> Deputy Attorney General's Office Attorney General's Office

DESCRIPTION OF PROCESS

- The Facilities Management Branch receives a list of projects, in order of priority, from the Court Services Division, the Criminal Law Division, the Ontario/ Victims Services Secretariat and the Family Justice Services Division
- At this point, the Ontario Realty Corporation provides general real estate and building specific inputs.
- Central agencies such as the Ministry of Finance, Management Board of Cabinet, Treasury Board, and the Ministry of Public Infrastructure Renewal provide financial and policy advice through direction guides.
- The FMB then aligns corporate direction with business line requirements in drafting the MAG Infrastructure Plan.
- FMB prepares infrastructure plan notes for initial review and feedback from line facilities staff, and sign-offs from respective ADAGs.
- The infrastructure plan, which includes the funding envelope for repair and rehabilitation, court construction and operational funding, is signed off by:
 - The COA/ADAG, Corporate Services Management Division
 - The line ADAGs (Court Services Division, Criminal Law Division, Victim Services Secretariat
 - Deputy Attorney General
 - Attorney General
- The infrastructure plan is then submitted to MPIR, Treasury Board of Cabinet and Cabinet for approval.

* Information provided by Facilities Management Branch.

9.5 Phase 5 - Review and approval



FLOW CHART 6

PHASE 5

TABLE 15*

Sub-processes	Participants
Presentation by MAG to roundtable	<ul style="list-style-type: none"> • Ontario Realty Corporation • Ministry of Public Infrastructure and Renewal
Review and recommendations Approval	<ul style="list-style-type: none"> • Treasury Board of Cabinet, • Management Board of Cabinet • Cabinet

DESCRIPTION OF PROCESS

- The MAG Infrastructure Plan is reviewed by all the appropriate central agencies and Cabinet Committees assigned responsibility for recommending and ultimately approving capital allocations through the budget estimates process.
- MPIR analyses the infrastructure plan in terms of congruence with government policy and its desired approach for funding.
- Ministry of the Attorney General and in particular FMB and CSD is given an opportunity to make a presentation at a roundtable with ministers and senior officials from central agencies.
- Ministry of Finance and Treasury Board consider the infrastructure plan in light of fiscal and budgetary perspectives.
- Cabinet Office concerns itself with policy alignment between the infrastructure plan and overarching government and justice sector policy priorities.
- Once approved, and voted in the legislature, the Ministry of the Attorney General is informed of its capital allocation and the commitmentssurrounding it.

Information provided by Facilities Management Branch

9.6 Phase 6 - Determination of funding source and management

FLOW CHART 7



DESCRIPTION OF PROCESS

New court construction

All new courthouse projects will be reviewed by the newly created Ontario Infrastructure Project Corporation to determine the preferred method of procurement. Projects with cost estimates valued at 100M or more are considered as a prime candidate to be delivered using the Alternative Procurement Method. The theory of alternative financing would have it that there is greater flexibility because resources through alternate financing are less constrained than resources through traditional fully-government sponsored financing.

- Where political direction requires a change to the size or scope of the intended project, that decision would first be conveyed by the appropriate central agency to the Facilities Management Branch.

PHASE 6

TABLE 16*

Type of Construction Participants

Repair and Rehabilitation	<ul style="list-style-type: none"> • Ministry of Finance • Treasury Board • Ontario Realty Corporation • Facilities Management Branch, MAG • Corporate Planning Branch, CSD
Court construction and Facilities Renewal	<ul style="list-style-type: none"> • Ministry of Finance • Treasury Board • Ministry of Public Infrastructure and Renewal • Ontario Realty Corporation • Cabinet • Ontario Infrastructure Projects Corporation (OIPC) • Facilities Management Branch

- FMB, as the spokesperson for the client ministry, would then initiate discussion with the Court Services Division with a view to amending work under way, regarding the project scope.
- MPIR will also consider the timing and staging of large capital projects.
- Where traditional financing is recommended, the capital allocation resides with the Facilities Management Branch.

Repair and Rehabilitation

Currently, a Memorandum of Understanding (MOU) between the FMB and CSD sets out roles and responsibilities for projects less than \$50,000 and are not impacted by code (building, ODA) requirements, planning studies and that require a building permit to implement. The MOU is reviewed annually. FMB and CSD have engaged in this type of MOU process for the past few years.

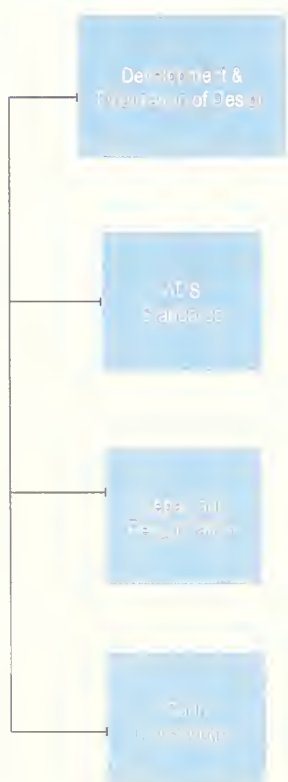
* Information provided by Facilities Management Branch.

Repair and Rehabilitation *cont.*

- For projects of less than \$50,000 estimated cost, a separate tracking system is initiated. CSD is delegated authority to initiate and implement these projects. Some projects of less than \$50,000 remain the responsibility of FMB where a building permit is required or ODA compliance is an issue.
- For projects above \$50,000 estimated cost, FMB assumes fiscal and implementation responsibility.

9.7 Phase 7- Functional Design

FLOW CHART 8



PHASE 7

TABLE 17*

Processes	Participants
Architectural design standards	<ul style="list-style-type: none"> • Ontario Court of Justice Design Standards Committee • Court Services Division • Facilities Management Branch • Ontario Victim Services Secretariat
Repair and Rehabilitation	<ul style="list-style-type: none"> • Judiciary • Users • Court Services Division and other Divisions as affected by the project • Facilities Management Branch • Ontario Realty Corporation
Court construction	<ul style="list-style-type: none"> • Judiciary • Users • Court Services Division • Facilities Management Branch • Ontario Realty Corporation • Victim Services Secretariat • VWAP

DESCRIPTION OF PROCESS

New court construction

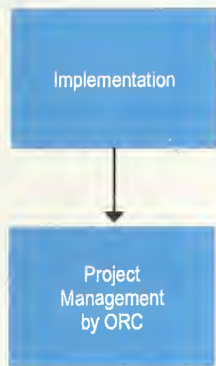
- For new construction, FMB usually chairs a Ministry Planning Committee with Divisional representation and representation from PIR and ORC.
- Local stockholder participation is managed through Court Services.
- Consultants are often retained to develop the facility program
- The output of a User's Committee is a functional program design that drives the detailed architectural planning.

Repair and Rehabilitation

- Many capital projects require considerable design work, with significant program input from CSD and interplay with the architects and technical staff of FMB.

* Information provided by Facilities Management Branch.

9.8 Phase 8 - Implementation



FLOW CHART 9

PHASE 8

TABLE 18*

Type of Project	Participants
COURT CONSTRUCTION	
Project management	<ul style="list-style-type: none"> Ontario Realty Corporation
Mid-project amendments	<ul style="list-style-type: none"> Treasury Board of Cabinet Ontario Realty Corporation Ministry of Public Infrastructure and Renewal Facilities Management Branch
REPAIR AND REHABILITATION	
Less than \$50,000	<ul style="list-style-type: none"> Ontario Realty Corporation Court Services Division ProFac
More than \$50,000	<ul style="list-style-type: none"> Facilities Management Branch Ontario Realty Corporation ProFac

* Information provided by Facilities Management Branch.

DESCRIPTION OF PROCESS

Court construction projects

Capital dollars are allocated directly to MAG Facilities Management Branch. MAG contracts with ORC for project management services; MPIR is charged with holdback authorization for post-contract contingencies. The practice is that a portion of the major capital is withheld to serve as a deterrent to cost over-runs and to allow for any post-contract contingencies.

Within ORC, general responsibility for project management falls to the Vice-President, Project Management, who then directs specific project oversight to the manager of capital construction.

Repair and Rehabilitation

These capital dollars flow directly to MAG Facilities Management Branch. FMB sees to the implementation of the projects though the offices of ORC. CSD contracts with ORC to manage projects under \$50,000 on behalf of CSD. CSD deals directly with ORC for specific projects. For projects over \$50,000, ORC is still the project manager but reports through FMB, who in turn liaises with CSD.

9.9 Summary of key issues

It is clear that the world of capital allocation for courthouses is a complex one as it is abuts with the interests of many other policy fields within the government.

It is important to recognize that courthouses, as a capital component of the overall government capital envelope, are less than 3 per cent for any given year. In addition, the courthouse is the physical embodiment of the justice system. Moreover, the very issue of land use, albeit for a court or indeed a hospital, is informed by a whole list of related policy questions, such as urban or smart growth,

alternative financing, and use of Brownfield sites as a magnet for urban renewal, to name a but few. Current governments at all levels are concerning themselves with constrained budgets, increasingly evidence-based decision systems, and evolving forms of governance. When we combine all the factors noted above, it is not surprising to see the burgeoning number of institutionalized interests in the form of central agencies that now support the complex and highly politicized world of capital allocation.

A summary of key process issues as identified by the respondents in this study is contained in Appendix E.

9.10 Overview of capital spending for Ontario courts

In seeking to obtain an overview of provincial planning for courts in Ontario, it is important to obtain a financial perspective.

Although the Ministry of the Attorney General is considered a “capital ministry,” it receives only a very small portion of the overall provincial capital budget. In the 2005-2006 fiscal year, it was allocated just over \$70.3 million, representing less than 3 per cent of the provincial capital budget.¹ When compared to the Ministries of Transportation (\$547 million, or 20 per cent), Northern Development and Mines (\$378 million, or 14 per cent) and Health and Long-Term Care (\$336 million or 12 per cent), MAG’s annual capital allocation for courthouse infrastructure is relatively small. Another way of expressing the spending patterns on capital would be that the Government of Ontario, in responding to constituency interests and political priorities, does not place the highest emphasis on courthouse construction and repair needs.

Despite receiving a small portion of the overall provincial capital budget, funding for courthouses in Ontario has increased

substantially since 1995, perhaps reflecting the urgent need to address an aging and over-burdened courts infrastructure and the priority given to “law and order” by governments in the mid-1990s. Table 19 presents a summary of capital funding approvals for courts from 1995-2006.

TABLE 19 *

APPROVED CAPITAL FUNDING FOR COURTS 1995 TO 2005

YEAR	MAJOR ²	MINOR	TOTAL
95-96	\$10,826,000	\$2,514,092	\$13,340,092
96-97	\$17,286,600	\$2,743,911	\$20,030,511
97-98	\$44,590,000	\$2,202,365	\$46,792,365
98-99	\$70,142,300	\$3,454,429	\$73,596,729
99-00	\$45,320,000	\$3,809,419	\$49,129,419
00-01	\$40,543,100	\$4,201,131	\$44,744,231
01-02	\$45,509,182	\$9,883,677	\$55,392,859
02-03	\$34,405,872	\$2,038,300	\$36,444,172
03-04	\$13,000,000	\$9,000,000	\$22,000,000
04-05	\$40,000,000	\$8,600,000	\$48,600,000
05-06	\$19,758,600	\$50,551,500	\$70,310,100
10 YEAR TOTAL	\$381,379,000	\$98,995,000	\$480,374,000

Within the Ministry of the Attorney General, the court services program has traditionally attracted most of the capital funding, as it is the program area that manages courthouse operations across the province. More recently, separate capital funding has been identified for the Criminal Law Division

¹ The Estimates, 2005-2006, Table 2A – General Capital Summary for the fiscal year ending March 31, 2006, http://www.fin.gov.on.ca/english/economy/estimates/2005-06/volume1/English_Table_2A.pdf

² The terms “major” and “minor” capital were amended to “new court construction” and “facilities repair and rehabilitation, facilities renewal/strategic investment in existing courthouses and strategic initiatives” when the five-year infrastructure planning process for ministries was implemented in 2004-2005.

* Information provided by Facilities Planning Unit, Court Services Division.

CHAPTER 9 CAPITAL PLANNING PURPOSES

10. REPAIR AND REHABILITATION OF COURT BUILDINGS

– (CLD) to fund “repair and rehabilitation” of Crown Attorney space in courthouses, and to the Ontario Victim Services Secretariat (OVSS) for the V/WAP spaces in courthouses. In 2005-2006, the Attorney General was allocated \$50.551 million for non-new court construction capital projects. Of this amount, \$7.947 million was earmarked for upgrades to existing courthouses, \$29.853 million for strategic initiatives such as the Justice Delay Reduction Initiative and holding cell improvements, and \$12.7 million for repair and rehabilitation projects. Of this repair and rehabilitation allocation, \$10.6 million (83 per cent) was earmarked for CSD, \$1.2 million for CLOC and \$0.7 million for OVSS (see Table 20).

As part of the five-year capital planning process, a total of \$385 million* has been approved for the MAG for 2005-2010. This includes \$225 million for court construction projects and \$142 million for “facilities renewal” or minor capital and initiative-specific projects.

MINISTRY OF THE ATTORNEY GENERAL
CAPITAL APPROVALS 2005-2006

TABLE 20*

TYPE OF CAPITAL	TOTAL APPROVED 2005-2006
REPAIR AND REHABILITATION	
• Court services	\$10,648,000
• Criminal Law Division	\$1,210,000
• Ontario Victim Services	\$651,500
• Other (e.g. Human Rights)	\$242,000
Subtotal	\$12,751,500
STRATEGIC INITIATIVES	\$29,853,000
COURT CONSTRUCTION	\$19,758,600
FACILITIES RENEWAL	\$7,947,000
Total	\$70,310,100

* The current funding approval of \$385 million is not funding allocation for a building envelope but represents actual specific funding approvals as noted in 2006/07.

* Information provided by the Facilities Planning Unit, Court Services Division

10

BEST PRACTICES IN COURTHOUSE DESIGN AND CONSTRUCTION

The following is a summary of best practices in courthouse design and construction as documented by the National Center for of State Courts based in Williamsburg, Virginia. For each section, comments based on the research team's understanding of the current Ontario experience are presented.

The judicial facility development process

The courthouse project development process described here refers to the common design-bid-build construction process consisting of five major phases: (1) Planning, (2) Design, (3) Bidding, (4) Construction, and (5) Building occupancy. The phases as described below apply generally to other procurement methods as well. The objectives and activities of each phase are different, but collectively they contribute to the successful completion of a project. The objectives and major project activities conducted within individual project phases are as follows:¹

Courthouse pre-design planning

Pre-design efforts lay the foundation for design and it is during this phase that changes in direction can be seen and taken most readily and least expensively. It is during this phase that goals are defined; essential court operation formats and service delivery strategies are conceptualized; the building's occupancies, total size, and project budgets are established; and facility planning and design standards are set. It is the least expensive and often least understood phase of the project. (Design and construction receive the most attention.) Since the pre-design service is an additional service to the standard design service agreement between owner

TABLE 21

PLANNING	DESIGN	BIDDING	CONSTRUCTION	OCCUPANCY
<ul style="list-style-type: none"> • Needs assessment • Resource evaluation • Implementation plan • Architectural programming 	<ul style="list-style-type: none"> • Schematic design • Design development • Construction documentation 	<ul style="list-style-type: none"> • Pre-bid conference • Special training 	<ul style="list-style-type: none"> • Construction administration • Change orders • Project close-out 	<ul style="list-style-type: none"> • Staff assignment • Operation policies • Special training

¹ The National Center for State Courts was engaged to help in this study and in particular to focus its considerable expertise on best practices in courthouse design and construction and provided the input for Table 21 as well as the best practices noted throughout this chapter. Although its examples are derived from the American experience, they provide helpful insight.

Courthouse pre-design planning *cont.*

and architect, many project owners view pre-design planning activities as unnecessary or as a duplication of the work done by the architect during design. It is often tempting to shortcut pre-design.

Pre-design planning, however, is no less important than the other project phases. Decisions made during pre-design planning affect not just the end product (the courthouse architecture) but also the effective use of the facility and efficient court operations within the facility. A well thought-out pre-design plan shows prudent consideration for effective cost control in the development of a major capital asset.

It also has a long-term effect on the quality and cost efficiency of the judicial service delivery mechanism. Spending time and money on pre-design planning will ensure that identified needs are met and can save the project money later on when it is much more expensive to make changes.

COMMENTARY

The study participants describe pre-design planning in Ontario as cursory, at best. There does not exist an overarching vision or policy-framing document or a mutually agreed upon set of goals, both of which are assumed in the best practice outlined above. There can be improvements to this process by the creation of a pre design-planning guide to ensure that major courthouse projects undertake the similar pre design planning activity.

Existing facility evaluation

The initial activity in a long-term planning process is to identify the deficiencies of the current facilities in terms of physical overcrowding and operational obsolescence. A facility that functions effectively by modern standards of circulation, security, space utilization, life safety, accessibility, and functional space adjacency but that is overcrowded because of growth may simply need supplemental facilities. An overcrowded and operationally obsolete courthouse may require extensive renovation efforts, but its long-term usefulness may still be limited, such as in the case of some historic facilities. Alternative facilities or new construction should be considered.

Evaluation of the existing resources should be conducted to address the physical, spatial, and operational characteristics of the facilities. In order to assess the existing physical work environments efficiently and comprehensively, the consultant should consider using a combination of various survey techniques, such as a user survey questionnaire, building evaluation checklist, building tour, and in-person interviews with users. To achieve an objective result, an evaluation checklist should be developed based on various reference standards. It is also critical to recognize that many of the existing local court operating practices represent compromises in many areas. The current situation may be less desirable than it should be because of the existing physical limitations imposed on the court operations. Higher standards of space functionality and operating requirements should be considered for use, in the context of short- and long-term needs identification, so the process can be conducted objectively.

Staff from FMB indicate that the Asset Management Planning (AMP) process is designed to inform long term plans for Ontario's Court Facilities and to support business case development for MAG's Infrastructure Plan. The Ministry of Public Infrastructure is requiring all Ministries to complete an AMP.

Future needs projections

The jurisdiction needs to determine the amount of space required and estimate the magnitude of need in the future to understand how immediate physical solutions and funding strategies may fit into an overall plan for long-term space needs. A typical needs assessment includes an analysis of the current court case loads, projection of

COMMENTARY

The Ministry of the Attorney General is beginning to meet this Best Practice in terms of the new Asset Management Process being implemented.

future court case loads, estimates of future judges' and staff requirements, and development of space needs for judges and staff using established space standards. These future needs projections usually are made for the next 20 years. Various case load projection methodologies, such as qualitative Delphi method, qualitative historic case filings trend line projection, or independent variables (crime rates, population, law enforcement resource, and economic demographic factors) relating to future case loads may be considered based on their applicability to the various characteristics of individual case type. Because population is the only variable for which practicable future estimates are likely to exist in most communities, an analysis of population and case filings is usually the most reliable. Forecasting with a combination of historic trend analysis, regression analysis, and population analysis generally present the most realistic projections. However, it is understood that the forecasting methods assume that the future will mirror the past. Assumptions regarding future population levels, statutory and policy changes, and staffing

levels should be clearly stated. The statistical project results, typically a range of possible outcome within the 95 per cent confidence level, should be interpreted and used as the base for reference.

In most American court jurisdictions, judgeship requirements estimates could be developed using the case load projection and applicable court weighted case load/workload standards. Non-judicial staff positions are, in general, related to the number of judges. The judgeship versus staff ratio may vary, depending on the state, community, and the jurisdictions of the courts. Once the number of future judgeships is estimated, it is possible to estimate the number of non-judicial personnel. Staffing of other court-related offices, such as the prosecutor's office and public defender's office, are also affected by changes in judicial staff. Staff of the clerk's office can be projected on the same basis as judges' by developing an appropriate filing-to-staff ratio that would be applied to estimates of court case filings.

Once the projections of judgeship and staffing are developed, appropriate ratios of staff to space can be agreed upon by the facility users and the facility providers. Preliminary functional space standards can be developed and applied to the staff position projected to determine current and future space needs.

It is important to note that MAG is currently reviewing its forecasting model with completion targeted for the end of the fiscal year 2006/07.

COMMENTARY

There are no long-term plans for each site or region. While the best practice suggests clarity around an approach to project future needs, participants perceive that the current methodology is woefully inadequate, particularly with respect to the independent variable of a new program development, statutory and policy changes, and population analysis. In the U.S., some counties may exert influence over the judicial complement. Several states have conducted state-wide judicial needs assessment/projection. The Administrative Office for US courts constructs such assessments on the district level to document for Congress the need for additional federal judgeships. In Ontario, the federal government is responsible for the Superior Court complement while the provincial Ministry of the Attorney General maintains responsibility for the OCJ judicial complement on a provincial, not a site-by-site, basis. National Center for State Courts work on best practice in this area would suggest that, with the rapid growth rate of Ontario, modelling work might also include judicial complement projections.

Moreover, in Ontario, there is no direct correlation between non-judicial staff complement and the number of judges, perhaps with the exception of judges' secretaries. Hence, there are no agreed upon staffing ratios.

Implementation planning (master plan)

The process by which a large or rapidly growing jurisdiction resolves its space needs may be complex. Examining long-term needs and evaluating existing resources can consider facility reuse, renovation, expansion, or new construction in the form of a facility master plan. Master planning compares space needs with space shortfalls, assesses existing building and site expandability, identifies feasible alternatives to meet the long-term space requirements and their respective cost/benefit implications, and develops both short- and long-term strategies for upgrading or supplementing facilities. The master plan should also identify specific implementation schedules, budgets, and funding options.

Notwithstanding the absence of a Master Plan for the entire system, there is considerable work underway for long-term planning for specific courthouses, namely in Cobourg, Kenora, Sarnia, Cayuga, Welland and London.

COMMENTARY

A master plan for capital implementation in Ontario's court system does not exist.

Architectural space programming

Architectural space programming analysis characterizes the proposed facility specifically and promotes an appropriate design process. Development of an architectural space program is a major pre-design planning effort. While master planning focuses on issues of higher level project planning and overall space requirement identification, architectural space programming identifies individual spaces to be designed by name, function, size, and relationship to other component spaces. The architectural space program specifies the building occupancy scenarios. It defines specific requirements and guidelines on how individual functional space in the courthouse should be utilized, the kind of activities to be accommodated within the space, how the space relates to other areas, and special technology/security/engineering requirements. The programming effort should be applied to all major and minor building components, including building support elements.

To improve service operation efficiency and use of the new facility, it is necessary to have user participation and input to the architectural space programming process. Courthouse users and the programmer should work together to creatively conceptualize or brainstorm their future work environment, giving consideration to their personal experiences and insights on how the space can best function and facilitate effective service and use. It is recommended that traditional customs and operating practices in the court and offices be re-examined or re-engineered during the space programming process to take advantage of the opportunity to redefine the court/office operation environment.

Facility master planning and architectural space programming are sometimes conducted in a continuous sequence by the same team. The early part of the process defines funding expectations and develops strategies. The later part develops specific information necessary to

design a building. In many other situations, however, master planning and space programming are done separately. The local government only develops the master plan to formulate necessary information for funding consideration or develops the court master plan as part of a local government-wide (such as county or state) facility master plan. The architectural space programming can be included in the architecture schematic design phase to be performed by the selected design team after the voters approve the funding of the project. There are some practical advantages to either approach. Regardless of the approach taken, sufficient resource and team expertise should be provided for thorough planning

COMMENTARY

The experience in Ontario would suggest that the Province is making significant progress in meeting this best practice. For example, all new courthouse projects will have to undertake “architectural space programming”, which MAG refers to as the “facility program”. Business process reengineering is not usually identified formally as a stage in the planning process but is captured informally as individual user groups table present and future needs. However, a more thoughtful re-examination of business process reengineering might be necessary to ensure that appropriate modernization of processes occurs.

Courthouse design issues

Every courthouse building type has its special characteristics in terms of functionality, image and design, building site, accessibility, security, design flexibility and the effect of technology. Every design represents a compromise among conflicting choices. Ideally, a courthouse should convey an appropriate sense of dignity and decorum, accommodate both short- and long-term space needs, and contribute to the effective administration of justice by providing physical facilities that are appropriate for current practices, as well as being able to accommodate changes in procedures, operations, and policies. The following are some of the design issues that are considered in a typical courthouse planning and design project.

Changing nature of litigation and its impact on design

The changing nature of litigation affects courthouse requirements. In the state court systems of the United States, the traditional court jurisdictions of criminal, civil, and probate have evolved into criminal, civil, probate, juvenile, family, traffic, and other special courts. Many jurisdictions have experienced not just an increase in the volume of cases but also an increase in the complexity of litigation. Special legal issues associated with youths and families have resulted in the creation of family courts around the country. As the services provided by the court systems are expanded to administer special court programs, such as alternative dispute resolution (ADR), juvenile Court, teen Court, and drug Court counselling/review, special court facilities are required. These programs generally are conducted in the form of group counselling with, or without, the presence of a judicial officer. Many of those sessions are held in conference or mediation facilities instead of courtrooms. Some jurisdictions remove parking violations from traffic and municipal court jurisdiction and place them under an administration agency responsible for collecting fines. These changing trends affect the planning of a new court facility.

COMMENTARY

Many participants in the study have referenced the changing nature of dispute resolution and the needs for flexibility in planning.

Public access and the consideration of centralization/decentralization of court services

Many large municipalities and counties face the problem of deciding whether to maintain consolidated judicial operations at one central location of the county or the municipality or to separate functions among several locations. Arguments for decentralization typically focus on public convenience, especially in limited jurisdiction, while arguments for centralization focus on economy and operational efficiency for general jurisdiction courts. Out of necessity, many large urban jurisdictions maintain multiple locations. For example, Harris County, Texas, has three new general jurisdiction district court buildings in downtown Houston for civil Court, criminal Court, and juvenile Court, respectively. The limited jurisdiction courts, Justice of the Peace Courts (JP Court), are located at 16 satellite facilities throughout the county. The three new court buildings are located on three separate city blocks but close to each other. Convenient public transportation is available, while adequate public parking is available at an adjacent site. The centralized district courts in downtown are convenient for lawyers, the public, and representatives of other court-related agencies, such as public defenders, prosecutors, social workers, and probation officers, to attend court proceedings. The central prisoner lockup and transportation sally port is convenient for the sheriff to transport prisoners from

county jails/detention facilities to a central staging area before moving them to courtrooms at various buildings. Judicial administration support and jury functions are centrally located in the criminal Court Building.

While the activities/services of the general jurisdiction courts are centrally provided, the limited jurisdiction courts of Harris County (the 16 satellite JP Courts), are spread out in eight precincts over the 500 square-mile county. One JP and a clerk's office are at each JP court facility. The JP courts are co-located with the county assessor, the county clerk's office, and the probation department field office. Each facility serves as a satellite of county government services at local communities. The JP courts are community based. The courts interact with local citizens' daily life and the courts are involved in children's truancy matters. The decentralized JP court offers convenient services to the local communities. However, both maintaining facilities of various vintages and equalizing court workload among 16 self-contained courts are problematic. Facility issues and human resource matters are resistant to changes. Changing demographics within individual jurisdictions result in inequitable case filings and workloads among JP precincts and facility utilization is imbalanced. The single judge independent court operations are subject to change. Harris County is considering regional JP court facilities with two to three JPs at each facility so the case loads can be distributed equitably and the facilities resource can be more effectively managed.

Facing the same centralization and decentralization issue, the Houston Municipal Court provides limited functions at its four satellite facilities while maximizing the centralized functions at its downtown facilities. All the jury trials are scheduled for the central facility, while the public may choose to attend at any one of the facilities to reset their courtroom appearance schedules or make pleas and pay court fines. All the jury trials and arraignment involving in-custody witnesses are processed at the downtown facility, where the police headquarters, the police lockup

facility, and the city attorney's office are nearby. Judges' courtroom assignments at the central facility are set on a daily basis. Jurors are summoned to the downtown courthouse and assigned to the jury dockets in the central courthouse. The majority of the staff of the clerk of the court's office is located downtown.

COMMENTARY

This best practice speaks to the need for a vision for courts.

Ratios of courtrooms to judges, the adjacency of courtrooms to chambers, and use of cluster judicial suites

One courtroom per judge is most desirable and this has been the traditional pattern of courtroom assignment in most of the courts. However, considering the high cost of courtroom construction, the actual courtroom utilization frequency, and the judges' work schedules; it is feasible to have fewer courtrooms than judges in large jurisdictions with more than 10 judges to achieve higher facility efficiency. The traditional plan of assigning courtrooms to specific judges is replaced by assigning judges to hear cases in certain courtrooms, based on the dockets of the court. Judges share the use of courtrooms. However, this courtroom assignment scheme cannot be successful without exercising careful facility scheduling and docket management. Due to the nature of the uncontrollable pace of litigations and trials, it can be expected that certain trials may take longer than scheduled and that the overrun will affect the assignment schedules. To minimize the impact of schedule delay and the possible loss of judicial productivity, courtroom assignment and case scheduling must maintain a certain amount of flexibility.

Courts may also consider alternative hearing facilities, which are less expensive than building courtrooms, to supplement the courtroom-sharing scheme. Judges, whenever necessary, can access smaller hearing rooms near their chambers for case maintenance or case administration proceedings that do not necessarily have to be conducted in large, formal courtroom settings. The increased use of smaller hearing rooms does not just supplement the regular courtroom, but also accommodates the growing trend of dispute resolutions and the need for arbitration and mediation facilities in courthouses. Orange County, Florida built its courthouse with a collegiate floor for judges, where judges' offices and support staff are on the floor above the courtroom floors. The collegiate floor is equipped with shared conference rooms, hearing rooms, law library, dining room, and a central security and reception vestibule at the entrance. Judges move between courtrooms and chambers through a dedicated private elevator and hallway. Judges of the Civil District Court of Orleans Parish, Louisiana adopted the collegiate floor concept and agreed to build fewer courtrooms than the number of judges to economize the new courthouse construction costs.

If courtroom sharing is to work, most courtrooms in the facility should be identical in their capacities, except the special courtrooms, such as arraignment courtrooms. All should be able to hold a Criminal jury trial. Attention should also be given to the ergonomic design of the judge's bench to accommodate differing needs.

The traditional courthouse design would normally place judges chambers near courtrooms, so judges can access the assigned courtroom directly, or through a private corridor, from his/her chambers. It is more convenient and flexible for future courtrooms to have judges chambers organized into judicial suites slightly apart from the courtrooms, perhaps on a wing or on a separate floor. The clustering of judicial chambers permits pooling of resources and staff and may enhance security. These may also facilitate effective courtroom assignment. When chambers are separated from courtrooms, a small robing room or conference room, which

is equipped with a telephone and a desk, is provided behind the courtrooms. Judges can use this small room to attend to other business during breaks without having to go back to chambers.

COMMENTARY

In Ontario, most participants would argue the desirability of clarifying the need for courtroom and other adjudicative/decisional space.

Attention needs to be paid to court scheduling practices between the Ontario Court of Justice and the Superior Court of Justice.

Extensive use of technology in courthouses and courtrooms

Dramatic changes in the work and organization of courts and in the technology and equipment needed to support the work have been experienced over the past few years. The most visible technology changes in courthouses observed include:

- Office technology (e-mail, word processing, and accounting software)
- Case management systems
- Video conferencing and arraignment
- Evidence presentation
- Public access systems
- Imaging/record management systems

The greatest technology impact on court operations and design will result from the ability to conduct work on court-related business from multiple locations. Some

of the conventional physical limitations on court facility planning and design, such as the need to maintain close spatial relationships between the functional areas, such as courtrooms and clerks' offices, are overcome by the use of real-time access and distribution of court case information through the computer network. Decentralized, remote support to satellite services with the use of technology becomes a practical solution to satisfy the growing demands on court services.

COMMENTARY

Clearly, the Province of Ontario is not seen as a jurisdiction maximizing the use of technology within courts, courthouses and between and among them. Attention to the utilization of technology will need to be a major focus of attention for new court construction.

Evolving best practice in MAG

The study precluded the analysis of current major capital planning underway for courthouses in Waterloo, Toronto (Criminal), Quinte and St. Thomas. Nonetheless, it appears that a number of important best practices are nascent.

- In the sites indicated above, courthouse users are being asked to plan within a 25-30 year horizon.
- New courthouse design contemplates flexible courtroom usage between the OCJ and SCJ.
- Considerable investment in pre-planning is taking place in the development of Welland, Cayuga, Kingston, Kenora, and Sarnia courthouses to name a few.
- Significant progress has been made in updating current

MAG Courthouse design standards approved by MAG and the Judiciary, through the OCJ and SCJ Design Committees. The first Best Practice Model to update the Justice of the Peace Complement in the ADS was approved February 1, 2006.

Summary

The planning approaches in Ontario roughly conform to the best practices as set out by the National Center for State Courts. However, there are a number of areas underscored in the summation of best practices that need to be examined by MAG:

- Insufficient energy is placed on the pre-design phase
- No overarching vision regarding courthouses exists
- There are no principles regarding occupancy with the result that a sense of space entitlement for each user group has evolved
- Financial information is not fully disclosed at the beginning of the planning phase
- No formalized "existing facility evaluation" takes place
- Projection models for future growth appear to be inadequate in light of best practices
- There are no long-term plans for each site and hence no master plan for implementation
- Changes to legal and judicial trends need to be incorporated in a more systematic way
- More attention needs to be paid to court scheduling between the Superior court and Ontario court benches
- Business process reengineering should be a central output of the planning processes
- The Province is not a leader in the use of technology in courthouses or courtrooms

The best practices describe activities at the macroscopic level. The issues cited by the participants in the study call for more specificity in best practices regarding:

- a) Best structures for engaging users
- b) Leadership and accountability during the planning process
- c) Most appropriate models of consolidation versus purpose-specific courts

11

FINDINGS AND SYNTHESIS

11.1 The courthouse as a system

All those who are permanent users or participants in a courthouse are no doubt aware that they are participating in a system whose many constituent parts reflect not only an independent arm of government, namely the judiciary, but also the varied partners, supports and services associated with family, civil, criminal and small claims court matters. Yet, there are very few processes or mechanisms to support this system so critical to our notion of democracy.

The provincial government plans for courthouses with an implicit assumption that the policy issues crucial to renewal and construction will have been sorted out by the judiciary and the key players in the system. The priority-setting processes that it creates for issue identification, analysis and decision-making still look very much like a Ministry-based approach, and perhaps not one tailor-made to fit the needs of such a complex system.

The judiciary and the key participants in the justice system, as surveyed for this report, are interested in articulating policy issues related to court construction and renewal, and participating in a process that would yield better approaches to courthouse design and construction, thereby better meeting the needs of the groups they serve.

11.2 The system is ready for change

Much has changed since the groundbreaking work of Mr. Justice Zuber in the 1980s. Many of the recommendations included in his report pertaining to the structure of the bench and court administration have been implemented.

One senses that a first wave of reform has been completed and that a second wave of change is imminent.

It is clear that the trend to alternative dispute resolution is becoming a permanent feature of the court system, thus speaking to the need for adjudication space outside the courtroom. This trend coupled with the apparent phenomenon of increased unrepresented litigants, would suggest a rethinking of the way in which functions for the court are planned.

The past two decades have yielded unprecedented programmatic developments with direct implications for courthouse construction and design. The public and many courthouse participants, for example, expect programs for victims and FLICs to be located in the courthouse proper.

Major demographic pressures in the province are particularly evident in the 905 urban sprawl areas. These demographics result in larger case loads, differing mixes of cases, and the ever-growing demand for interpretation services.

The Province has announced a very large allocation of resources for new courthouse construction and renewal contained in the Ministry of Attorney General Infrastructure Plan. This important government decision will require a great deal of energy, focus and commitment from large numbers of the bench and users. New Cabinet processes and agencies have been created to ensure, from the government's point of view, that appropriate policies are in place for realty asset management.

The respondents in this study seem to have exhibited an appetite for positive improvements to the processes currently applied to planning court construction. There is consensus that there are serious absences of policy that hinder the development of optimal approaches to the design and construction of courthouses. Recognizing that current and future governments will likely be dealing with constrained financial resources, the participants in this study explicitly or implicitly argue for a change in direction and seem to be prepared to be engaged in any processes that might be developed to create the policy backdrop that will make a difference.

11.3 Facilities are an important but not in courthouse functionality

It is clear from the review of the three consolidated courthouses in Brampton, Hamilton and Ottawa, that the functional design and the processes for their development are crucial factors in determining the functionality of a courthouse. When reviewing the post-construction amendments to original plans, one sees two forms of adaptation: 1. Spatial changes to accommodate such new program initiatives such as V/WAP or JDRI and 2. Changes to adjacencies required to optimize administrative approaches to adjudicative support, such as the placement of court scheduling or support of the “Crown Brief”.

This study was designed to examine whether the functioning of consolidated courthouses was in any measure affected by the planning processes and assumptions governing their construction and design. There appears to be no question that best practice would dictate a rigorous approach to planning. Yet, perhaps one of the most significant findings of this study is that planning and adjacencies alone cannot account in total for the functioning of a courthouse.

In the main, appropriate facilities are necessary but not sufficient conditions for effective services in a courthouse. It appears that there are a number of preconditions for the success of any capital enterprise – vision, leadership, clarity of roles and responsibilities, positive organizational

culture, a sensitivity to the interplay of multiple actors within a complex environment, and a keen sense of the uniqueness of the justice sector and the absolute requirement for an independent judiciary, (see Figure 3.)

MAJOR FACTORS AFFECTING
THE FUNCTIONALITY OF A COURTHOUSE

FIGURE 3



Facilities

The nature of the facility, site, adjacencies, client flow, access and security features are significant attributes of well functioning courthouses. Space pressures, arising after construction, often result in changes to adjacencies.

Other Policies and Programs

There are a host of policy, legislative and programmatic initiatives that have a large bearing on the functionality of any courthouse. Often, these changes are not anticipated in the planning process, and yet they occur with monotonous regularity, leading to greater pressure on the functioning and spatial requirements of a courthouse. Examples might include mid-year

allocations of additional Crown Attorneys as a result of a JDRI initiative or the creation of specialized courts. The Ministry of the Attorney General generates policy around victims and the treatment of Crown Briefs. MAG also deals with administrative and operational policies that might affect courthouse functionality.

Δ The judiciary, through general bar committees, establishes rules regarding Family and Civil law that impact on space requirements.

Other ministries, in meeting their respective mandates, might produce policy that has a bearing on courts and the adjudicative system. Other levels of government also produce policies and procedures that have an impact on courthouses.

Police practices, notably charging practices, have a direct impact on workload and space requirements.

Finally, policy and legislative changes made to the Criminal Code often impact court processes and facility requirements.

Technology

Many current agencies are established on the basis of existing manual and/or automated processes. Greater utilization of technology might result in different planning requirements, including quantum of space and agencies.

Vision and leadership

The vision underlying the construction of a new courthouse or the renewal of an existing facility is a variable affecting functionality. The Ottawa Courthouse was constructed at a time when there was government commitment to court consolidation and the inclusion of customer service elements in a public government facility. A local judicial leader can initiate approaches that have a great bearing on the functionality of the courthouse. Moreover, other policies such as management of government real estate or customer service need to be aligned with the vision of a courthouse.

Processes

There are a number of processes that appear to affect the functioning of a courthouse. Among them are:

1. Capital planning
 - ♦ Space planning
 - Pre-construction
 - Post-construction
 - ♦ Design standards
 - ♦ Facility renewal planning
 - ♦ Political decision making
2. Operational planning
 - ♦ Counter service
 - ♦ Vertical file management
 - ♦ Court scheduling and availability of courtrooms
 - ♦ Video remand

The Cabinet decision-making process entails decisions on courthouse site selection, financing and resourcing. The timelines are lengthy and the processes complex.

Resourcing System

The social organism known as a courthouse is a unique public institution insofar as its resourcing base transcends three levels of government and numerous ministries within the provincial government.

Each of the contributing players approaches the issue of resourcing from its own set of policies, political constraints and conditions. Yet, there is no comprehensive, global approach to the financing of courthouse operations. The federal government pays for the salaries of Superior Court judges while the province bears the full cost of court administration. Municipal police pay for court security. Unique backlog pressures, from time to time, result in a flow of provincial dollars for particular aspects of the adjudication process.

Demographics and environment

Demographics and the local environment are key considerations in projecting future demands on the courthouse. Such variables as population growth, immigration, ethnicity, cultural values, language of victims and the accused, proximity to federal airports and the availability of public transportation are also large factors in projecting pressures on the courts.

Organizational culture

The relationship between the judiciary and the various players in a courthouse, communication patterns, the inherent approach to dispute resolution, trust, and history all have a significant bearing on the functionality of a courthouse. Many would argue that the local legal culture and the presence or absence of a strong sense of community have large impacts on the way in which the courthouse functions. Moreover, many would argue that little attention is paid to the creation of a positive organizational culture once the physical consolidation of functions occurs within a new courthouse.

11.4 Challenges with current planning model

It is clear from the feedback received from the participants in this study that it would be folly to consider a rigid, doctrinaire “one size fits all” approach to the planning of courthouses. The judiciary would be the first to argue that an in-depth analysis is required for each site being contemplated and that a vision document and an occupancy model therefore must include a variety of approaches, a variety of scenarios, and recognition of acute differences across the regions. Planning for a heavy-growth region would be different than planning for a static demographic model. Planning in the north would require some thinking about the disposition of justice in satellite locations on reserve as well as infrastructure and program initiatives launched by the federal government. Planning for a consolidated courthouse with all business lines would be different than planning for a specific purpose, such as family or civil Courts.

Planning must contemplate the latest trends in adjudication and alternative dispute resolution, the application of technology, and innovation with respect to the treatment of the unrepresented litigant.

Planning for the future will require new methodological approaches to the prediction of program and space pressures. Certain delivery features should be constant in each courthouse and not be subject to local planning processes.

The length of the planning cycle, the sheer number of users consulted, the absence of clear accountability for who is responsible for what; all these factors have contributed to what many would argue is a planning process that is too long, too inflexible and opaque to those who participate in it.

11.5 There is no clear vision or policy framework guiding the planning of courthouses

When new courthouses are planned, planning exercises associated with them are described as unique, or “one-off.” Clearly, site selection and local circumstance have much bearing on the final design of a courthouse. This absence of a policy framework results in ambiguous processes with clouded accountabilities and, more importantly, different features across new courthouses.

11.6 Opportunities for judicial input

Practices vary across the province with regard to judicial input into both new construction and renewal projects. In many regions, Local Administrative Judges are involved in providing input. In most but not all regions, Regional Senior Judges provided significant input to regional priority-setting. There are no mechanisms in place to receive systemic input from the two Ontario benches on major matters like site selection, systemic priorities, and key policy parameters for court design.

11.7 There is a lack of research readily available

Given the multiplicity of factors affecting the functionality of a courthouse and the relative paucity of data collected to date, it would be useful to construct a research agenda that would help in future principle and evidence-based decisions about court administrative and technological practices and advances.

A number of topics that have a bearing on future design are:

- New methodology for modelling growth needs
- Inter-jurisdictional review of consolidation and approaches to courthouse design
- Analyses of key trends in adjudication and dispute resolution
- Key performance indicators across all business lines

12

RECOMMENDATIONS

This report has examined capital planning for courthouses through a system lens. Extensive consultation with the judiciary and provincial as well as local stakeholders has yielded seven major findings. The recommendations, which flow from these key findings, fall into four categories.

Structure: Recommendations 1-6

This set of recommendations focuses on the development of formalized structures for input, advice and/or decision-making related to capital planning for courthouses.

Foundational Work: Recommendations 7-11

This set of recommendations addresses the need for the development of additional foundational policy development to guide capital planning for courthouses.

Process: Recommendations 12-13

These recommendations deal with suggested improvements to current courthouse planning processes.

Enablers: Recommendations 14-15

These two recommendations deal with enabling strategies to enhance outcomes from the courthouse capital planning processes.

1. CREATE NEW MINISTRY MECHANISMS TO GUIDE ACCOMMODATIONS PLANNING FOR THE MAG

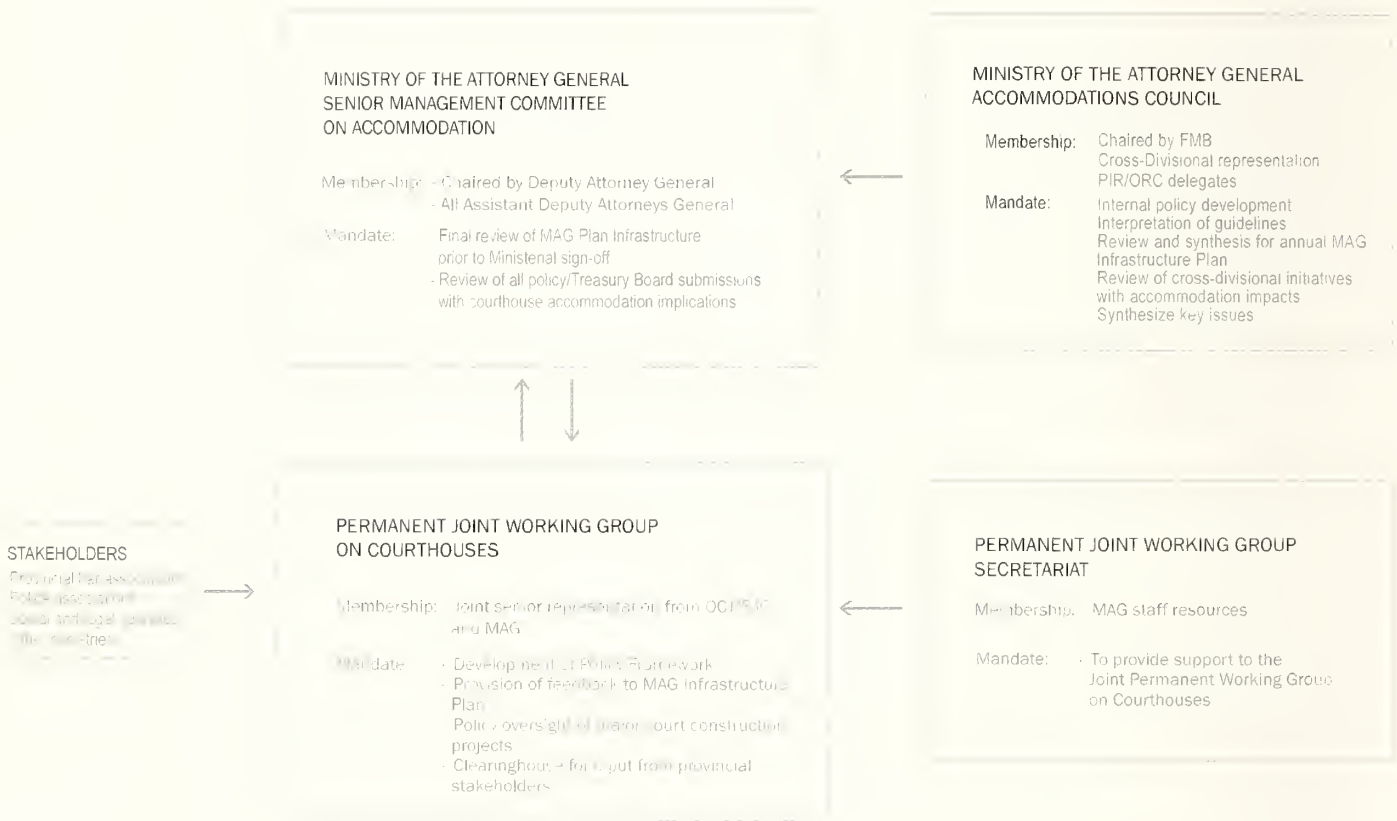
It is recommended that the Minister of the Attorney General establish joint new planning and oversight mechanisms to guide accommodations planning in the Ministry

One of the most consistent themes echoing throughout the consultation process was the need to change current mechanisms and processes within the Ministry of the Attorney General pertaining to courthouse capital planning. Any changes to planning need to be focused within clear and accountable structures for advice and decision-making.

The creation of four new planning mechanisms would serve to:

- Demonstrate leadership
- Ensure appropriate and timely input from the judiciary
- Clarify roles, relationships and accountabilities at both central and local tables
- Provide an access point for issue clarification when contentious matters arise

A PROPOSED MINISTRY STRUCTURE FOR ACCOMMODATION AND COURTHOUSE FACILITY



2. ESTABLISH THE PERMANENT JOINT WORKING GROUP ON COURTHOUSES

It is recommended that the Attorney General establish a Permanent Joint Working Group (PJWG) on courthouses with a clear Terms of Reference and a focus on the development of a policy framework to guide continuous construction and renewal.

One of the major findings in the study is the limited judicial input, particularly at the level of the Executive of the respective benches, into the “front end” of capital planning for courthouses. Much activity is directed at the local level.

The establishment of a Permanent Joint Working Group on courthouses would:

- Recognize the unique role of the judiciary
- Provide a vehicle for the Chief Justices of both benches to provide direct executive-level input regarding courthouse planning issues
- Provide a forum for senior MAG officials to identify key policy gaps and work on respective policy development
- The Policy Framework would include:
 - Guiding principles
 - A conceptual framework
 - Types of consolidation models
 - Trends in adjudication and dispute resolution
 - Occupancy framework
 - Criteria for site selection
 - Core Functions
 - Determination of core functions
 - Applicability of occupancy model to existing courthouse inventory and new court construction
 - Growth and expansion strategies preferred for

2. ESTABLISH THE PERMANENT JOINT WORKING GROUP ON COURTHOUSES *cont.*

various types/sizes of courthouses?

In addition to providing a policy framework, the PJWG would be responsible for providing principle based oversight to the development of the MAG Infrastructure Plan. In this role, the PJWG would:

- Review input from provincial stakeholders
 - ♦ Develop five-year system goals/themes.
 - ♦ Develop criteria for annual priority setting process.

The Permanent Joint Working Group would also provide policy oversight on new construction projects by:

- Establishing an a priori policy framework
 - ♦ Develop Terms of Reference for local Users' Committees.
 - ♦ Clarify contentious issues as they arise, and recommend approaches for resolution

At the outset, having received broad directions from MAG, the permanent Joint Working Group would need to refine its mandate, Terms of Reference, and composition. The PJWG would need to establish a short-term work plan and begin work on the foundational policies to be described below.

The Perkins Eastman Black Architectural Study recommends: "MAG may choose to establish policy or provide 'high level' direction on the type of growth and expansion strategies which are preferred for various types of sizes of courthouses." Facility Planning Studies — Brampton, Hamilton and Ottawa, Final Report. Perkins Eastman Black, ORC project No. P20028, January 30, 2006 , 247)

3. ESTABLISH STAFF INFRASTRUCTURE FOR THE PERMANENT JOINT WORKING GROUP

It is recommended that the Ministry of the Attorney General, on the advice of the judiciary, allocate appropriate resources to develop the creation of a small secretariat function to help the bench and MAG meet the mandate of the Permanent Joint Working Group.

The offices of the Chief Justices of both the Ontario Court of Justice and the Superior Court of Justice are very lean in terms of specialized support and dedicated expertise on courthouse construction and renewal.

In order for both the judiciary and MAG to work effectively together, infrastructure must be put into place. The staff unit would work closely with the leadership of the JPWG to establish timetables and a plan of action, and provide the background support necessary.

It is suggested that a permanent group composed of senior representation from both courts and MAG be established. Clearly, in the short run, the PJWG would be involved in the development of the policy framework. In the very short-term, it would be developing an interim policy strategy to direct the four new approved construction projects, namely St. Thomas, Quinte, Waterloo and Toronto (Criminal). Over time, it would not only deal with in-year priority setting but would consider major issues that need clarification. For example, while it is clear that all new buildings would comply with the *Ontarians With Disabilities Act*, it is not clear about how to deal with existing inventory.

4. CREATE A MAG SENIOR MANAGEMENT COMMITTEE ON ACCOMMODATIONS

It is recommended that the Deputy Attorney General create a long-term, cross-divisional committee to deal with accommodations in courthouses.

Currently, the burden for policy, operational and financial synthesis of accommodations falls on the Facilities Management Branch and the Chief Administrative Officer of the Ministry. The exigencies of time do not always permit sufficient dialogue between and among Divisions respecting the MAG Infrastructure Plan or the in-year policy/program submissions that might have an impact on courthouse space.

The establishment of such a permanent subcommittee of the on-going Senior Management Committee would provide a forum for:

- Ministry-wide priority setting
 - Greater appreciation of cross-Divisional interests
 - Systematic review of mid-year Cabinet or Treasury Board submissions with courthouse implications

Such a committee would be chaired by the Deputy Attorney General, with membership from all Divisions. The committee would be supported by the Accommodations Council. Its initial work would likely focus on consolidation of the 2006/07 Accommodation Plan and in-year initiatives impacting on courthouses.

5. CREATE AN ACCOMMODATIONS COUNCIL

It is recommended that the Ministry create a MAG Accommodations Council that would serve as a forum for exchanging information, facilitating discussion and conducting strategic planning of the Ministry's accommodation and project activities. This council would serve as the secretariat for the Senior Management Committee on Accommodation.

The current internal planning processes are not optimal in terms of encouraging cross-Divisional discussion and consideration of strategy and policy concerning accommodations matters.

The goals of an Accommodations Council, chaired by the Facilities Management Branch, with appropriate representation from all Divisions and *ex-officio* representation from the Ontario Realty Corporation and the Ministry of Public Infrastructure Renewal, would be:

- Identifying of emerging issues and risks
- Developing risk-mitigation strategies
- Identifying cross-Divisional issues
- Facilitating of cross-Divisional cooperation
- Shaping the direction of strategic planning
- Supporting the Senior Management Committee
- Clarifying the roles and relationships regarding the identification, implementation and resolution of accommodation issues
- Creating and executing of the research agenda
- Development of “best practices” for areas determined to be of high priority

Some local bench/bar committees address facilities issues at their regular meetings. However, these

6. ESTABLISH PERMANENT USERS' COMMITTEES IN ALL COURTHOUSES.

It is recommended that permanent Users Committees focusing on facilities and accommodation issues be established in all sites and that continuous involvement in future building be made

committees are often focused on one business line (e.g. Criminal) and do not include the public and other users.

A strong argument has been made by many participants that ongoing mechanisms need to be mandated in order to ensure that a vehicle exists for the handling of difficult space-related issues. In addition, many have argued that, given the importance of organizational culture, participants need to be trained in team building in order to ensure effective participation.

A standard Terms of Reference should be created for these Users Committees, and they should be chaired by the local court manager. The committee should meet quarterly or more frequently as required.

The central theme expressed most by the participants

7. THE PERMANENT JOINT WORKING GROUP SHOULD DEVELOP A POLICY FRAMEWORK

It is recommended that the Permanent Joint Working Group develop a policy framework which is updated every 5 years, to guide the decision-making processes associated with courthouse improvements and construction

in this study was the need for an articulated, government-endorsed vision of a courthouse that would contain a listing of the key services required by the public, the types of combinations and permutations of the consolidated model, and the desired approach or approaches to occupancy. It was argued implicitly by many, that direction is required from the leadership cadres given that consensus is not likely to emerge from the traditional stakeholders in the justice sector. A great deal of effort has been expended in the development of Architectural Design Standards. The document contains some explicit and implicit policy considerations. It is recommended that a facilitated, principle-based consultation process be developed that would frame the architectural standards within a more clearly articulated policy framework.

The policy framework would contain at a minimum the list of components detailed in the following.

7. THE PERMANENT JOINT WORKING GROUP SHOULD DEVELOP A POLICY FRAMEWORK *cont.*

Policy Framework

- Scenario setting
 - ♦ Consolidation¹
 - ♦ Circumstances warranting single practice area building, e.g. family, criminal court
- Trends in adjudication and dispute resolution that have an impact on accommodation and planning
- Key public goods/services
- Guiding principles
- Occupancy framework
- Core functions
 - ♦ Determination of core functions
 - ♦ Applicability to new court construction
 - ♦ Determination of applicability to existing courthouse inventory
- Roles and responsibilities for participants in courthouse planning

¹ The architectural study contained an interesting obverse recommendation pertaining to consolidation.

When Growth Options are Exhausted – Define a “Deconsolidation” Strategy.

Provide a strategy and/or policy on the ‘de-consolidation’ of major courthouse projects, since some of the existing courthouse projects in the province have or will shortly outgrow current premises.

- In Brampton, where internal growth options have been exhausted and additional structures or significant expansion is required, a ‘de-consolidation’ program should be defined by MAG.
- In Ottawa, where current ‘growth’ strategies are currently being implemented, the building will soon reach its capacity to provide space for additional courtrooms and the necessary ancillary space. Rather than compromise security or operational efficiency, a de-consolidation program should be established.

Facility Planning Studies – Brampton, Hamilton and Ottawa, Final Report. Perkins Eastman Black, ORC Project No. P20028. January 30, 2006, 5.

8. DEVELOP FAST-TRACK POLICY FRAMEWORK TO SUPPORT CURRENT PLANNING FOR TORONTO (CRIMINAL), ST. THOMAS, QUINTE, AND WATERLOO COURTHOUSES

It is recommended that the PJWG develop a policy framework on an expedient basis, to guide the functional planning for courthouses in Toronto, St. Thomas, Quinte and Waterloo.

Current planning has commenced for the construction of four courthouses in the absence of any new policy or process development.

This interim policy framework would guide all users' groups and consultants and would serve to:

- Clarify responsibility
- Determine what key features and approaches would be determined centrally
- Make plain the narrowed mandate of local users' groups

The framework would include

- Key attributes for courthouses in Toronto (Criminal, Waterloo, St. Thomas and Quinte)
- Interim occupancy model
- Application of occupancy model to the designated construction projects
- Terms of Reference and composition of users' groups for four sites
- Interim guiding principles

9. ENDORSEMENT OF GUIDING PRINCIPLES

The Joint Permanent Working Group produced a set of guiding principles that would direct all future courthouse planning.

Discussions with the judiciary at the outset of this study centered on the need for “principle-based” decision-making on courthouse design and construction. A number of documents such as the Architectural Design Standards and the MAG Courthouse Planning Handbook (2000) do contain references to principles, yet there is no overarching set of principles of “best and highest use” that is inclusive enough to provide sufficient direction in the planning area.

The material below represents a composite set of such principles for consideration by the Joint Permanent Working Group.

Draft guiding principles

I. Independence of the Courts

- The judiciary is the third branch of government.
- The independence of the judiciary and the perception of such independence is critical to the functioning of democracy
- Courthouse design and occupancy must reflect society’s commitment to the rule of law, the independence of the courts, and respect for citizens and the state.
- There should be no overweighting of the

9. ENDORSEMENT OF GUIDING PRINCIPLES *cont.*

needs of any occupants in a courthouse that would compromise the appearance of the independence of the judiciary.

II. Core Functions

- Adjudication and dispute resolution are the core functions of the court.
- Those support functions that directly affect adjudication and dispute resolution are also core functions.

III. Values

- the public is the user
 - ♦ The courts provide a fundamental public service.
 - ♦ Every courthouse should have a greeting/ filtering space.
 - ♦ The public requires dedicated space for information, especially given the growing number of unrepresented litigants.
 - ♦ The courthouse should be built to facilitate an ongoing educational process for citizens.
 - ♦ The courthouse should be built to ease and support the integration with other problem-solving resources for citizens.
- Accessibility
 - ♦ Barrier-free design
 - ♦ Geographic access by public
 - ♦ Procedural accessibility
 - ♦ Economic accessibility to the court

- Efficiency
 - ♦ Adjacencies should be appropriate.
 - ♦ Technology should be applied to enhance efficiency, accessibility and improve customer service.
- Durability
 - ♦ Durability of design and materials
 - ♦ Durability of approach
- Functionality
 - ♦ A formal knowledge transfer mechanism should be developed to ensure the transmission of relevant learnings from the judiciary and key stakeholders for future construction and renewal projects.
 - ♦ Planning should be conducted from the perspective of client need, client flow and work flow.
- Flexibility
 - ♦ Adaptable to changes in technology, programs and procedures
 - ♦ Ability to meet present and future needs generated by population and case load growth
 - ♦ Space needs to be conceived as serving a variety of purposes
- Respectful of the environment
- Multilingual environment

III. Aesthetics

- Sense of majesty and dignity
- Must be seen to be open and inviting to the public

10. RATIFY A SET OF CORE FUNCTIONS THAT WOULD COMPRISE AN OCCUPANCY MODEL

It is recommended that the Government begin working through developing an approach to an occupancy model that would drive future courthouse planning.

Clearly the lack of consensus around core functions in a courthouse has led most participants on the study to observe the absence of policy, and the inadequacy of current planning processes, including the sorting out of space needs post-construction.

Just as one might imagine variations in approach to consolidation (single purpose buildings versus full consolidation), so one might imagine some variations in approaches to prospective occupancy models related to site, resourcing and local circumstances. The need for a practical orientation does not mitigate the requirements for clarity in desired approaches to occupancy. This report is rife with examples of difficulties on the ground associated with acute space shortages, the absence of an occupancy model, the lack of precision regarding accountability and the length of time associated with dispute resolution on space matters in a courthouse.

The following schema has been developed as a draft document to stimulate discussions. Four tiers of occupancy have been created in descending ranking. The placement of space for the public, in Tier 2, signals a change in the approach to public space. Traditionally, the architectural definition of public space includes hallways, elevators and the like. In this draft approach, public space is

10. RATIFY A SET OF CORE FUNCTIONS THAT WOULD COMPRISE AN OCCUPANCY MODEL

reconceived as “space for the public”, that is, a placeholder for key information and services that would be determined to be requisite for citizens.

A Draft Occupancy Model

Tier #1 The adjudicative and dispute resolution function

Judiciary

- ♦ Court administration
- ♦ Counter service
- ♦ CCTV testimony facilities

Civil/Family mediation

Jurors

Interview Rooms

Mediation rooms for civil, family and criminal matters

Holding cells

Tier #2 Space for the public

Information

FLICs

Self help for unrepresented litigants

Childcare

Victim/witness waiting rooms

Media room

Navigation aids

Tier #3 Litigation and court support⁴

Law Association Library

Robing rooms

Meeting rooms for the bar

Criminal

- ♦ Crown Attorneys
- ♦ V/WAP
- ♦ Parole and probation
- ♦ Legal aid
- ♦ Social agencies
- ♦ Police bureau

Family:

- ♦ CAS

⁴The architectural study contained a relevant recommendation regarding space for external agencies: Establish a policy and/or strategy to provide adequate space to accommodate offices for external agencies that does not compromise the functionality of the courthouse

- We recommend reviewing appropriate design options for accommodating these agencies. These solutions may address such factors as ideal space (administration vs. purpose built), appropriate agencies, space usage, etc.
 - MAG may choose to identify limits – for example the conversion of interview rooms to day offices
 - New policies should apply to both existing buildings and to new projects.
- Facility Planning Studies – Brampton, Hamilton and Ottawa, Final Report, Perkins Eastman Black, ORC Project No. P20028. January 30, 2006.

10A. APPROPRIATE LOCATIONS FOR LAW ASSOCIATION LIBRARIES

It is recommended that law association libraries be situated in courthouses where possible, or adjacent to courthouses if desirable. The location of law association libraries should be determined by the judiciary and other users and stakeholders in consultation with the public.

A variety of law associations in Ontario have made formal and informal presentations arguing for the continued inclusion of law libraries in any occupancy model for courthouses. The judiciary and other users and stakeholders agree that the law association library and related space is a necessary feature of a well-functioning courthouse.

In the hierarchy of tiers contained in the draft occupancy model, it is assumed that space for

11. DEVELOP NEW APPROACHES TO MODEL FUTURE GROWTH AND EXPANSION NEEDS

It is recommended that the Ministry of the Attorney General commission a study to develop an optimal methodology for modelling demographic and programmatic growth requirements.

the public (and high volume courts) would be located on the first floor of any new courthouse. The allocation of space ought to be the subject of a space standard, and should seem intuitively appealing to consider computerized access as a constant feature of future law association libraries.

Many of the judges, Crown Attorneys and court managers throughout the course of consultations spoke about the need to conceptualize space needs, not only in terms of pressures on courtrooms, but pressures on non-courtroom space. They also felt strongly that current modelling is inadequate.

A strengthened methodology would examine the large number of variables affecting future growth needs. Such a study should be launched immediately and should not be linked to any particular new construction project. Its focus would be systemic and would include an analysis of new trends in adjudication, and likely future program priorities,

12. REFINE THE CAPITAL PLANNING PROCESSES

ISSUE IDENTIFICATION AND PRIORITIZATION

12A: Long-term plans need to be developed for each courthouse site.

12 B: All business cases related to accommodations should be reviewed and assessed for a cross-Divisional perspective at the Accommodations Council.

12 C: Flexibility should be built into the priority-setting phase to allow rebalancing of priorities in light of new judicial appointments, new programs and/or emergencies.

12 D: The Accommodations Council should assess the current approach to cost absorption for “program” and “facility” issues.

DEVELOPMENT OF MAG INFRASTRUCTURE PLAN

12 E: The Permanent Joint Working Group should produce an annual set of system-wide concerns to drive capital renewal.

12 F: The Accommodations Council should provide guidance for the development of the draft MAG Infrastructure Plan.

12 G: The Permanent Joint Working Group should review and provide recommendations regarding the draft MAG infrastructure plan.

12 H: The Permanent Joint Working Group should receive formal input from major judicial stakeholders on an annual basis.

12 I: The policy framework for courthouses, when completed, should accompany the signed-off MAG infrastructure plan forwarded by the Attorney General to Cabinet.

FUNDING SOURCE AND MANAGEMENT

12J: The Attorney General should inform PJWG and the Chief Justices of Cabinet decisions pertaining to the MAG infrastructure plan.

12. REFINE THE CAPITAL PLANNING PROCESSES *cont.*

FUNCTIONAL DESIGN

12K: The PJWG should begin to consider all new construction projects with a formal knowledge transfer session led by the judiciary and court management.

12 L: A detailed Terms of Reference, approved by the PJWG, should be developed to guide user committees involved in construction projects outlining:

- Scope
 - A priori policy matters
 - Issues to be considered
- Decision-making accountabilities
 - Issues requiring resolution should be forwarded to the PJWG for discussion and/or resolution.

12 L *cont.*:

- Timeframes
- Guiding principles
 - Referred from PJWG
- Membership
 - Based on occupancy model and principles
 - Rule of “no substitutes”

12 M: All Users’ Committee participants should be trained in dispute resolution techniques and team building.

12 N: The Accommodations Council should evaluate continually the modernization of the Province of Ontario Architectural Design Standards and work with both courts.³

The PEB Report makes a number of recommendations regarding improvements to the Architectural Design Standards:

³ *Province of Ontario Architectural Design Standards for Courthouses:*

1. Provide a process for the regular updating of the standards, since as a ‘living’ document they should continue to address current trends (e.g. technology, security, etc).
2. The use of natural light within courtroom spaces (especially in smaller courthouses) while currently prohibited within the ADS, may be worthy of additional review. In courthouses where this may be feasible and economic to do so, natural light (direct or indirect) has an effect on the atmosphere in the courtroom.
3. Standardize the size of the courtroom – in order to provide operational and functional efficiencies.
4. Review the minimum dimensions identified for circulation routes and corridors. Large courthouse projects may require additional corridor widths for key circulation routes especially in projects where the length of corridors becomes exceptional. A single designated width may not be appropriate for all courthouses – this includes private, secure and public corridors. Modify or allow for additional widths in gross – up allowances where necessary.
5. Review courtroom waiting area seating allocations as well as the design of seating areas. The configuration and length of typical floor plans, public corridors and associated courtroom waiting areas may require an additional allocation or type of seating for large floor plates or larger courthouse projects. Different business lines (e.g. family court) may also benefit from more appropriate solutions to waiting.

Continued.

12. REFINE THE CAPITAL PLANNING PROCESSES *cont.*

FUNCTIONAL DESIGN *cont.*

12 O: MAG leadership should work with the Ontario Realty Corporation and Ministry of Public Infrastructure Renewal to enhance their content expertise on courthouses.

SITE SELECTION

12 P: Through the PJWG, the judiciary should be given an opportunity to provide formal input into site selection and will review detailed briefings on the recommended approval.

IMPLEMENTATION

12 Q: Benchmarks should be developed, through the auspices of the Accommodations Council, for facilities renewal project specification and implementation to improve customer service.

12 R: Where and when the government needs to make significant changes to an approved functional design, the PJWG, in concert with the local Users' Committee, should review the conceptual underpinning that might result in recommendations to the Deputy Attorney General and the Attorney General for changes to the original approach.

cont. Province of Ontario Architectural Design Standards for Courthouses :

6. As a long-term objective, and as the ADS document develops in the future, there should be opportunity for designers to resolve functional issues in a creative and innovative way. We anticipate that the ADS can become a document which is more performance-based rather than prescriptive-based.

Facility Planning Studies – Brampton, Hamilton and Ottawa, Final Report. Perkins Eastman Black, ORC Project No. P20028. January 30, 2006, 250.

12. REFINE THE CAPITAL PLANNING PROCESSES *cont.*

The participants in the study are much more concerned with the planning phases of projects: issue identification, development of the MAG Infrastructure Plan, and functional design.

The Ministry, through the Accommodations Council, would prioritize the refinement of planning processes to meet the needs of new construction projects and the development of the 07/08 MAG Infrastructure Plan.

13. CREATE BETTER LINKAGES WITH MINISTRIES THAT HAVE INTERESTS IN WELL-FUNCTIONING COURTHOUSES

There is no policy or operations table where Ministers with common interests in courthouse design and construction can consider the ramifications of discrete initiatives that might have an impact on courthouses. As an example, a minister responsible for the business sectors in Ontario might have more than a passing interest in the creation of a new Civil Courthouse in Toronto. Similarly the Minister of Community Safety and Correctional Services may wish to have a forum in which to discuss location concerns regarding the site for the replacement of the Don Jail and the location of the new Toronto Courthouse (Criminal).

Acknowledging that there have been some attempts in the past to construct a justice sector policy clearinghouse, the need still exists.

The dialogue that would occur between and among interested Ministries would enhance the quality of pre-design planning.

14. INITIATE A RESEARCH AGENDA

It is recommended that the Ministry of the Attorney General initiate a research agenda to support the difficult work to be conducted by the permanent Joint Working Group.

A preliminary list would include:

A broad comparative review of other jurisdictions' experience with alternative approaches to compensation and recovery of business losses in cases of fire or environmental contamination; the court's jurisdiction and capacity to

the development of key performance indicators that need to be tracked; access to business loss

training to adjudicators and dispute resolution

There are some research gaps that inhibit systematic policy development. Through the meetings of the Accommodations Council and the Permanent Joint Working Group, a list of requisite policy research will need to be developed and executed.

Such a research agenda would inform the policy development work engaged by the PJWG and the overall Ministry.

15. ADDRESS COURTHOUSE MATTERS AT JUSTICE SUMMIT

It is recommended that the Justice Summit include courthouse matters as a regular agenda item and include key ministers with authority to court houses (the partners will)

In order to facilitate more system-wide thinking about the nature and functionality of courthouses, it would be useful to create a standing item on the agenda of the annual Justice Summit to address courthouse issues.

The inclusion of such a standing item at an annual summit attended by judicial leaders and major justice partners would serve to broaden the sense of common understanding.

13

A PLAN OF ACTION

Expenditures approved for courthouse construction, consolidation and renewal by the government of Ontario over the next five years are estimated at \$385 million. The findings of this report point to the need for policy and process refinement, and development of effective planning strategies for well functioning courthouses of the future.

The following plan of action is offered as a guide for leaders and decision-makers in the justice sector as the synthesis and recommendations arising from this report are considered.

It is organized in sequence of which recommendations need to be implemented soonest. The Plan of Action breaks down those recommendations into two time periods:

- A) **Immediate: Within Six Months**
- B) **Medium-Term: Within Seven to Eighteen Months**

ACTION PLAN A: 0-6 MONTHS

TABLE A

REFERENCE	ACTION	DELIVERABLE	RESPONSIBILITY
RECOMMENDATION 1	Key decisions regarding implementation of report	Decisions re: structure	Minister, Deputy Attorney General
RECOMMENDATION 2	Establish Permanent Joint Working Group	<ul style="list-style-type: none"> • Terms of Reference and Composition • Short-term deliverables 	Minister, Chief Justice
RECOMMENDATION 3	Establish Secretariat	<ul style="list-style-type: none"> • Second Staff • Secure resources • Develop mandate • Short-term work plan 	Deputy Attorney General, Assist. Deputy Attorney General, Court Services Division
RECOMMENDATION 4	Establish SMC Accommodations Committee	<ul style="list-style-type: none"> • Terms of Reference • Review of key outputs in 06/07 Accommodations Plan • Task the Committee with monitoring the implementation of 	Deputy Attorney General, Chief Administrative Officer
RECOMMENDATION 5	Create Ministry Accommodations Council	Action plan	Chief Administrative Officer

LEGEND

STRUCTURE:

Recommendations 1-6

FOUNDATIONAL WORK:

Recommendations 7-11

PROCESS:

Recommendations 12-13

ENABLERS:

Recommendations 14-15

ACTION PLAN A: 0-6 MONTHS

TABLE B

REFERENCE	ACTION	DELIVERABLE	RESPONSIBILITY
RECOMMENDATION 8	Develop Fast-Track Policy Framework for four new courthouses	<ul style="list-style-type: none"> Interim principles, occupancy framework Key features Terms of Reference for local Users' Groups 	PJWG, Ministry Senior Management Committee on Accommodations
RECOMMENDATION 11	Commission a study to develop new methodology for modelling growth	Develop RFP tender document	Accommodations Council
RECOMMENDATION 12	Prioritize key process changes required to drive next fiscal year's MAG Infrastructure Plan	<ul style="list-style-type: none"> Consensus on key changes Clarified roles and responsibilities 	Accommodations Council, SMC

LEGEND

STRUCTURE:
Recommendations 1-6

FOUNDATIONAL WORK:
Recommendations 7-11

PROCESS:
Recommendations 12-13

ENABLERS:
Recommendations 14-15

ACTION PLAN B: 7-18 MONTHS

TABLE C

REFERENCE	ACTION	DELIVERABLE	RESPONSIBILITY
RECOMMENDATIONS 7, 9, 10	Develop Policy Framework	Ratify guiding principles, occupancy model, policy framework	PJWG, SMC
RECOMMENDATION 6	Permanent Users' Committees in Courthouses	<ul style="list-style-type: none"> • Prioritization across all courthouses • Terms of Reference with clear accountabilities 	Local Judiciary MCOs
RECOMMENDATION 13	Establish linkage with other Ministries	Forum for discussion	Minister, Deputy Attorney General,
RECOMMENDATION 14	Research Agenda	Priority list	Assistant Deputy Attorney General, Court Services Division
RECOMMENDATION 15	Justice Summit	Presentation	Minister, Deputy Attorney General

LEGEND

STRUCTURE:
Recommendations 1-6

FOUNDATIONAL WORK:
Recommendations 7-11

PROCESS:
Recommendations 12-13

ENABLERS:
Recommendations 14-15

APPENDIX A:

INTERVIEW GUIDE

1. Are you aware of any accessibility issues concerning the public, judges, staff, prisoners, etc? E.g.:
 - i. Physical mobility
 - ii. Visually impaired
 - iii. Sound
 - iv. Parking
 - v. Entry to building
 - vi. Communications: (Calling, fax, e-mailing)
 - vii. Suggestions for change
2. How does the layout of the building help/hinder what you have to do everyday?
 - a. Are the locations of services accessible to the public?
 - b. Is it easy for staff to get from one office/part of the building to another, in the course of their work?
 - c. Is there appropriate adjacency? (i.e. Are the staff and offices who must work together close to each other?)
 - d. Suggestions for change
3. How does the courthouse help/hinder you to deliver service to the clients/customers? (Public, bar, judges, court staff) E.g.:
 - i. Finding correct office
 - ii. Adequate waiting space
 - iii. Access to cafeteria
 - iv. Availability of cloak rooms
 - v. Access to copiers
 - vi. How important is it for your office (Legal Aid, Victims Services, etc.) to be in the courthouse?
 - vii. Suggestions for change
4. How does the configuration of your area help/hinder you in meeting your performance standards?
5. How does the facility help/hinder security? E.g.: Security of:
 - i. People (judicial circulation, in custody accused, general public, lawyers, crowns, jury, victims)
 - ii. Information (exhibits, court records)
 - iii. Building Management Security

5. How does the facility help/hinder security *cont.*

- iv. Parking
- v. Suggestions for change

6. What problems, if any, does the facility pose for the handling of the accused person? E.g.:

- i. Transportation to the courthouse – distance
- ii. Initial Processing
- iii. Holding Area (general, courtroom)
- iv. Movement from holding area to courtroom
- v. Release processing
- vi. Access to counsel
- vii. Separate dock
- viii. Suggestions for change

7. What in the physical layout of the courtroom helps/hinders the ability to fairly adjudicate matters before the court? E.g.:

- i. Size
- ii. Sight lines
- iii. Dais
- iv. Support staff accommodation
- v. In custody facility
- vi. Jury box
- vii. Jury room
- viii. Lighting
- ix. Motion Rooms
- x. HVAC
- xi. Accommodations for special hearing (e.g.: children, dvc)
- xii. Video conferencing
- xiii. Interpreters
- xiv. Acoustics
- xv. IT
- xvi. Witness Room
- xvii. Consulting Room
- xviii. Sufficient room (attorneys, public)
- xix. Suggestions for change

8. How does this facility make it easy/difficult to store, retrieve, circulate and return files? E.g.:

- i. Size of file room
- ii. Location of file room

- iii. Configuration of file room
- iv. Public access
- v. Suggestions for change

Process Questions:

MAJOR CAPITAL

Past

1. Were you involved in the planning of the consolidated courthouse? If so:
 - a. In what capacity? (e.g. Represented your area, position at that time)
 - b. How were you involved? (e.g. Requirements definition, User Committee, ad hoc meetings, sign-off)
 - c. What do you recall as the sequence/milestones of planning for the courthouse?
 - d. What parts of the planning process worked well? What parts did not work well?
2. If you were not involved, why not? (e.g. Not here at that time, not asked to participate, someone else from your area represented group, etc.)

Future

3. In thinking back, if there was one thing you could change in the planning process, what would it be?
4. If there were one thing you could change in the Courthouse, what would it be?

MINOR CAPITAL

Past

1. Has your space in the courthouse undergone any enhancements/changes since the new building was opened? If so:
 - a. What were the changes?
 - b. How was the need for the change identified?
 - c. Who did you rely on to get the change implemented and to update you on progress?
 - d. How long did it take?
 - e. Did you get what you asked for?

Present

2. If your space has not changed since the new building opened, how would you initiate a request for, as an example, additional space or a reconfiguration of your existing space?

Future

3. If you were seeking to enhance or change something in the courthouse, how would you alter the process for obtaining approval for that change?

APPENDIX B: CONSULTATION PARTICIPANTS

Judiciary:

- **Superior Court of Justice:**
 - ◆ Chief Justice
 - ◆ Associate Chief Justice
 - ◆ Council of Regional Senior Justices
 - ◆ Regional Senior Justices
 - ◆ Local Administrative Justices
 - ◆ Judicial Facilities Leads
 - ◆ Additional Justices identified by RSJ or LAJ
- **Ontario Court of Justice:**
 - ◆ Chief Justice
 - ◆ Associate Chief Justices
 - ◆ Chief Justice's Executive Committee
 - ◆ Regional Senior Justices
 - ◆ Local Administrative Justices
 - ◆ Regional Senior Justices of the Peace
 - ◆ Local Administrative Justices of the Peace
 - ◆ Judicial Facilities Lead
 - ◆ Ontario Court of Justice Design Standards Committee
 - ◆ Additional Justices identified by RSJ or LAJ

Ministry of the Attorney General:

- Court Services Division
 - ◆ Assistant Deputy Attorney General
 - ◆ Directors of Court Operations
 - ◆ Managers of Court Operations
 - ◆ Supervisors of Court Operations
 - ◆ Corporate Planning Branch
 - ◆ Regional Management Committees

Ministry of the Attorney General *cont.*

- Criminal Law Division
 - ◆ Assistant Deputy Attorney General
 - ◆ Directors of Crown Operations in Central West and East Regions
 - ◆ Crown Attorneys in Brampton, Hamilton and Ottawa
 - ◆ Regional Operations Managers
- Corporate Services Management Division
 - ◆ Assistant Deputy Attorney General
 - ◆ Facilities Management Branch
- Ontario Victim Services Secretariat
 - ◆ Assistant Deputy Attorney General
 - ◆ Programs and Community Development Branch
 - Victim/Witness Assistance Program

Bar Groups:

- County and District Law Presidents Association
- Advocates' Society
- Toronto Lawyers Association
- Law Society of Upper Canada
- Criminal Lawyers Association
- Ontario Bar Association
- Peel Lawyers Association
- Peel Criminal Lawyers Association
- Hamilton Bar Association
- Hamilton Criminal Lawyers Association
- County of Carlton Law Association
- Ottawa Defence Lawyers Association

Other Ministries and Government Groups:

- Federal Crown Attorneys
- Legal Aid Ontario
- Ministry of Community Safety and Correctional Services

- ◆ Adult Community Corrections
- ◆ Policing Services
- ◆ Offender Transportation Unit
- ◆ Maplehurst Correctional Complex
- ◆ Vanier Centre for Women
- ◆ Probation and Parole Area Managers in Brampton, Hamilton and Ottawa
- Ministry of Public Infrastructure and Renewal
 - ◆ Infrastructure Financing and Procurement Division
 - ◆ Infrastructure Policy and Planning Division
- Ontario Realty Corporation
 - ◆ Portfolio Strategy and Asset Management Division
 - ◆ Property Management and Client Services Division
- Association of Ontario Children's Aid Societies
- Ontario Provincial Police
- Peel Regional Police Service
- Hamilton Police Service
- Ottawa Police Service

Other Groups:

- Peel Family Mediation Services
- Victim Services of Peel
- Native Court Workers in Hamilton
- Salvation Army in Hamilton
- Elizabeth Fry Foundation in Brampton, Hamilton and Ottawa
- The John Howard Society in Brampton and Hamilton
- Canadian Mental Health Association in Brampton, Hamilton and Ottawa
- Ontario Public Service Employees Union (OPSEU)
- Association of Management, Administrative and Professional Crown Employees of Ontario (AMAPCEO)
- Ontario Crown Attorneys Association (OCAA)
- Police Association of Ontario (PAO)

APPENDIX C: ANNOTATED BIBLIOGRAPHY

AMERICAN LITERATURE

Facility Design

Courts are based on the essential principles of fairness and openness. Well-designed courthouse facilities embody these principles, maintaining the dignity of the court while providing accessibility and security. They separate the judicial functions from the administrative functions and create a professional environment that offers privacy. When a courthouse design accomplishes these feats, the judicial process can move forward unhindered and with increased efficiency and effectiveness.

The materials listed in this section of the annotated bibliography, offer standards and guidelines to follow when designing a courthouse. The bibliography offers resources and guides to understanding the challenges involved in designing a modern courthouse to fit the ever-changing needs of the judiciary. The role and use of architects and other members of a competent courthouse project team are also addressed. Challenges, including modern security, technology, and effective administration, are addressed and analyzed as well.

2005 Facilities Standards for the Public Building Service. Washington, DC: U.S. General Service Administration, Public Building Service, Office of the Chief Architect, 2005.

"The Facilities Standards for the Public Buildings Service establishes design standards and criteria for new buildings, major and minor alternations, and work in historic structures for the Public Buildings Service (PBS) of the General Services Administration (GSA). This 353-page document contains policy and technical criteria to be used in the programming, design, and documentation of GSA buildings." Chapter 8 discusses Security Design issues such as planning, costs, architecture and interior design, construction, electronic security and parking security. The most relevant chapter of this title is Chapter 9 that considers design standards for U.S. Court Facilities. This chapter examines in depth standards for architectural and interior design, structural, mechanical and electrical systems, fire protection and security design.

The American Bar Association , Judicial Administration Division and the National Center for State Courts. *Twenty Years of Courthouse Design Revisited: Supplement to the American Courthouse.* Chicago: American Bar Association, 1993.

This publication examines numerous examples of good courthouses constructed throughout the United States and

Canada. Each sample courthouse is illustrated through a descriptive narrative as well as with diagrams, floor plans, and photographs.

Committee of Architecture for Justice. *Design Resource File: A Guide to Information for Architects Designing Justice Facilities*. Washington, DC: American Institute of Architects, 1988.

This resource file provides numerous bibliographies of titles addressing courthouse design. It then provides a detailed outline of courthouse design dealing with issues such as security and acoustics in a courtroom.

Comprehensive Space Standards Manual. Fair Oaks, Calif.: The SGS Group, 1990-2001.

This 111- page document provides clear, detailed floor plans for work stations and private offices (Section A), conference and reception rooms (Section B), and justice facilities, such as various-size courtrooms, holding cells, public counters, hearing rooms, and jury deliberation rooms (Section D). It also provides detailed pictures and information on equipment and furnishings (Section C).

Flango, Carol. *How Are the Courts Coordinating Family Cases?* Williamsburg, Va.: National Center for State Courts, 1999.

This book includes some brief chapters on court placement of family services and courtrooms along with a very detailed explanation of family court processes and services.

Greenberg, Alan. *Courthouse Design: A Handbook for Judges and Court Administrators*. Chicago: American Bar Association, Commission on Standards of Judicial Administration, 1975.

This American Bar Association publication offers details on courthouse design and construction (Chapter 2) and budget considerations (Chapter 4). This title includes tables that provide suggested distance measurements between participants in the courtroom and several pages of illustrated courtroom diagrams and designs.

Hardenbergh, Don, and James R. James. *Court Facility Evaluation: Greene County Courthouse, Springfield, Missouri*. Williamsburg, Va.: National Center for State Courts, 1989.

This 1989 NCSC technical assistance report discusses general trends affecting courthouse design, functional requirements and facility standards, and space requirements. It also provides diagrams of court space standards.

Hardenbergh, Don, and Michael Griebel, Robert W. Tobin, and Chang-Ming Yeh. *The Courthouse: A Planning and Design Guide for Court Facilities*. Williamsburg, Va.: National Center for State Courts, 1998.

"The largest and most expensive program that any court administrator or judge will ever participate in is the planning, design, and construction of a new courthouse." Guided by this statement, the authors of this comprehensive handbook offer a thorough discussion of every aspect of building a courthouse. Chapter I is a broad examination of the planning process which includes a discussion of committees to oversee the project, selection of consultants and architects and the five phases of a facilities project: planning, design, bidding, construction, and occupancy. Chapter II describes in depth such issues as site selection, use of satellite court facilities, zoning and internal circulation and building efficiency factors. Also presented in Chapter II are issues concerning courthouse security, needs of persons with disabilities, fire and life safety and the environment. Chapter III includes the design guidelines for each area within the courthouse. Where needed, each area is examined in terms of nine criteria: design and image, space, environment, needs of persons with disabilities, adjacency and circulation, accessibility, security, furnishings, and technology considerations. Lastly,

Chapter IV reviews the “many different financial arrangements that are used to finance courthouse construction.” This title also provides a facility evaluation checklist and a bibliography.

Hardenbergh, Don, compiler. *Retrospective of Courthouse Design, 1980-1991*. Williamsburg, Va.: National Center for State Courts, 1992.

This NCSC publication highlights courthouse design between 1980-1991. Each showcased courthouse discussion offers an architect’s statement and life safety information, as well as site and floor plans.

Hardenbergh, Don, and Todd S. Phillips, editors. *Retrospective of Courthouse Design, 1991-2001*. Williamsburg, Va.: National Center for State Courts, 2001.

This updated edition of the 1980-1991 report includes a discussion of family and juvenile courts and examples of large consolidated judicial centers. One such example, found on page 204, describes a courthouse and its companion building that houses several city family agencies, ranging from probation to victim services.

Hardenbergh, Don. “Trends in Courthouse Design.” *Future Trends in the State Courts*, 2004. Williamsburg, Va.: National Center for State Courts, 2004 (p.119-122).

This article presents cutting-edge ideas for improving courthouse design. A major goal of recent efforts has been to place a “greater emphasis on public or customer service on the part of the courts and the judiciary, and in making the court environment more pleasant and less stressful.” The author provides examples such as providing child care, developing better public access and public counters, and displaying public art by members of the community throughout the courthouse.

Hurst, Hunter, Hunter Hurst IV and Lori P. Adamcik. *Shaping a New Order in the Court: A Sourcebook for Juvenile and Family Court Design*. Pittsburgh, Pa.: The National Center for Juvenile Justice, 1992.

The purpose of this guide is to “provide designers of juvenile and family facilities with vision of useful and effective facilities” and to “identify design issues” and “provide guidance in addressing these issues.” It describes basic features (Section 2) as well as recommendations for courthouse functional areas, such as waiting areas courtrooms, judges’ chambers, and holding cells (Section 3). For example, for the judges’ chambers, this guide suggests that each judge should have some latitude to personalize his or her own chambers, that there should be a provision for a personal library and the chambers should be large enough to accommodate small hearings.

Smith, J. MacGregor, ed. *Guidelines for the Planning and Design of State Court Programs and Facilities, Volumes A-F*. Champaign, Ill.: National Clearinghouse for Criminal Justice Planning and Architecture, 1977.

Although written in 1977, this multi-volume set offers a detailed examination of system planning concepts, court planning concepts, prosecution planning concepts, defender planning concepts, juvenile and family courts, and court system modeling and analysis. From building requirements of a judge’s bench to information on a grand jury complex, these volumes provide a historical reference as well as practical considerations for courthouse design and planning. Volume A examines, with helpful diagrams, pictures, and floor plans, the differences between various courts and offices, including appellate courts (Section 3.0), trial courts (Section 4.0), the trial prosecutor and defender’s offices (Sections 5.0 and 9.0), and the Juvenile/Family Court Facility (Section 10.0).

Sobel, Walter H. *State of Wisconsin: Trial Court Facilities Project, Volume One: Guidelines for Physical Facilities*.

Madison, Wis.: Director of State Courts, Supreme Court of Wisconsin, 1981.

This document provides guidelines for all relevant parties working on the design and construction of courthouses in Wisconsin. It stresses the importance of the difference between private and public areas (Part B) and then explores, with this difference in mind, the needs of the various sections in a courthouse using detailed floor plans and charts displaying information on each section (Part C).

U.S. Courts Design Guide, 1997 Edition. Washington, DC: U.S. Administrative Office of the United States Courts, 1997.

As a comprehensive guide to the planning and design of federal courthouses, this 1997 title discusses such issues as spatial relationships within the courthouse, jury facilities, court libraries, furniture and finishes, and automation considerations. Although intended for use by the federal court system which does not have jurisdiction over juvenile and family matters and has a substantially lower caseload than those of large state court systems, this guide is also valuable for courts generally. Also of interest are the numerous tables, diagrams, and floor plans featured throughout this title.

Virginia Courthouse Facilities Guidelines. Richmond, Va.: Judicial Council of Virginia, 1987.

This publication for the Virginia Court System, but a good reference for other court systems as well, provides guidelines for elements required in court facilities, while still "allowing flexibility in how the elements are incorporated." These guidelines range from general considerations such as location, handicap access, and security (Chapter 3.1), to the design of all areas of a courtroom, including the entrance, the lectern, and the jury box (Chapter 3.2), to the judges' chambers (Chapter 3.3) and many other areas of a courthouse such as the jury deliberation room (Chapter 3.5) and the press room (Chapter 3.10).

Wong, F. Michael. *Judicial Administration and Space Management: A Guide for Architects, Court Administrators, and Planners.* Gainesville, Fl.: University Press of Florida, 2001.

This book was written to provide architects and planners information on the needs of the courthouse so that they could design courthouses that met these needs. The book covers all areas of a courthouse including the facilities for various involved parties and accessibility considerations (Chapter 1), the basic structure of the various courts (Chapter 2), the relationship between technology and space management (Chapter 5), the funding of judicial facility projects (Chapter 10), and the implementation of these projects (Chapter 11). It also deals specifically with jury and space management covering all areas of jury management including jury selection, general jury assembly areas, jury impaneling rooms, jury facilities in trial courtrooms, deliberation suites, and sequestration suites (Chapter 3).

Facility Planning

Courthouses are unique and complex buildings whose special characteristics differentiate them from other building types. Courthouse planning projects should consider functional needs, appropriate image and design, site selection, access needs of persons with disabilities, security, flexibility, and the effects of technology. The materials listed below cover all aspects of this planning procedure and address issues unique to new courthouse planning and construction.

Designing Court Facilities: Facilities, Space and Organizational Goals, Participant Guide. Williamsburg, Va.: National Center for State Courts, Institute for Court Management, 2001.

This participant guide for a course on courthouse design offered by the Institute for Court Management discusses the relationship between physical space and organizational performance by providing a “step-by-step facilities-planning process,” which includes goals and objectives, required tools, potential problem areas, and terminology (Unit 3).

King, Jonathan, Ernest O. Moore, Robert E. Johnson, and Sally A. Guregian, editor. *The Michigan Courthouse Study, Volume I: Statistical Summary and Design Guidelines.* Ann Arbor, Mich.: Architectural Research Laboratory, The University of Michigan, 1981.

This book examines the efforts of the Courts of Michigan to create higher quality courthouses. It first presents in a statistical summary the conditions of the various courts from available parking to emergency systems, to the problems of courtrooms, such as poor acoustics, to those of jury deliberation rooms, including the level of privacy. In response to these conditions, it presents design guidelines for all areas of a courthouse, addressing general issues such as access to the needs of courtrooms and other specific rooms. For instance, there is a discussion of ancillary spaces found in the courthouse. Optimal spacing and design elements are reviewed for judges’ chambers, jury assembly and deliberation rooms, hearing and conference rooms, prisoner, mental patient and juvenile holding facilities, and law libraries. Details for each area include suggested size, location and furnishings.

Pinkerton, Sr., Thomas G. *Understanding and Initiating New Courthouse Construction.* Williamsburg, Va.: Phase III paper, Court Executive Development Program, Institute for Court Management, 1998.

This paper is intended as a resource for court officials who typically do not have expertise in the field of building design. It introduces the players in the process of constructing or remodeling a courthouse (p. 7), gives a traditional schedule with a timeline, beginning with the initial planning to construction (p. 14), and discusses the leadership role courts should take in this process (p. 18). The author recommends that courts follow the model for court-led construction development found in the recent success of the federal courts system. Instituted by the federal judiciary and planned by the Administrative Office of United States Courts, billions of dollars in new federal courthouse construction has been completed due in part to the Administrative Office of the United States Courts initiative to research and plan new courthouses.

Siegel, Lawrence. *The Image of Justice: Facility Planning for the Courts.* Washington, DC: Criminal Courts Technical Assistance Project, Institute for Advanced Studies in Justice, The American University Law School, 1982.

This publication focuses on the development of the standards used in the later phase of designing (Section II). It focuses on factors, such as population growth, increases in traffic violations, divorce cases, juvenile matters and criminal cases, that affect the needs of court facilities (Section III) and the ability to foresee needs as well with useful tools such as evaluation checklists (Section VI and VII). It also examines security considerations (Section VIII).

Steelman, David C...[et al.] *Court Facilities: Needs of the Hudson County (NJ) Superior Court: Final Report.* North Andover, Mass.: National Center for State Courts, 1988.

This report by the National Center for State Courts provides an assessment of the Hudson County Superior Court’s “suitability as a court facility” (Chapter I). It then assesses the “suitability in terms of the court’s current needs” and then predicts the level of suitability for future needs (Chapter II). It also explores building and funding

considerations (Chapter III).

Three-Year Space Plan for the Superior Court (1998-2000): Report and Request for Funding to Maricopa County Government. Phoenix, Ariz.: Superior Court of Arizona, Maricopa County, 1998.

This document provides the specific example of Maricopa County and its attempt to create additional courtrooms and office space in response to an increase in demand for court services. It questions whether the current courthouse is maximizing the current space (Section 3.0) and whether it can use space around its current facilities to expand (Section 4.0).

Utah Judicial System Master Plan for Capital Facilities, Volume II: Judicial Planning Goals, Facility Design Guidelines, Space Standards. Salt Lake City, Utah: Gillies Stransky Brems Architects and Carter Goble Associates, Inc., 1987.

This title discusses the guidelines of courthouse design ranging from the goals and objectives and the resulting planning process (Part One) to the specific design guidelines for court sets including courtrooms, chambers, and jury deliberation rooms and the requirements for different courts (Part Two) and the recommended square footage space standards (Part Three).

Security

Courthouses represent governmental authority and are particularly vulnerable to acts of terrorism and random violence because they are accessible and centrally located. Planning for court security must involve collaboration with law enforcement officials, emergency agencies, architects and experts in the field of court security technology. This bibliographical section offers materials available to help meet the challenges of numerous issues of courthouse security, such as accessing security needs, technological requirements and the implementation of court security measures.

Arizona Supreme Court, Report and Recommendations, Committee on Court Security and Emergency Preparedness. Preparing for the Unthinkable: A Report to the Arizona Judicial Council. Phoenix, Ariz.: Arizona Supreme Court, 2003.

In this 2003 report to the Arizona Judicial Council, the Arizona Supreme Court Committee on Court Security and Emergency Preparedness outlines a comprehensive court emergency response plan as well as makes four recommendations as to courthouse security. Particularly recommendation #4 (p. 28) discusses facility and office design. It states, in summary, that courthouses should be designed so as to protect against attack such as by installing physical barriers around the courthouse and providing secure parking for court personnel. Furthermore, all courts should have a secure holding area for prisoners. Lastly, funding agencies should adequately provide the necessary resources for the technology, staff and programs to safely protect the courthouse and its personnel.

Atlas, Randall I. *Designing for Security in Courthouses of the Future.* Fifth National Court Technology Conference (CTC5), National Center for State Courts, 1997.

This presentation includes a set of recommendations on how to apply Crime Prevention through Environmental Design (CPTED) concepts to courthouse design.

Carter, Richard W. *Court Security for Judges, Bailiffs, and Other Court Personnel.* Arlington, Tex.: Judge Richard W.

Carter, 1992.

Written by a retired judge, this book describes the development of a court security program, including chapters on courthouse architecture (p. 46) and security equipment and devices (p. 54).

Court Security and Disaster Planning, Participant Guide. Williamsburg, Va.: National Center for State Courts, Institute for Court Management, 2003.

This training course participant guide is designed to provide: “information about general trends related to court security [Unit 2], specific methodology for conducting a court security audit [Unit 3], an overview of security considerations for a high profile trial [Unit 4], key points for judicial protection [Unit 5], and guidelines for staff training, procedural manual contents and emergency plans” [Unit 6].

Federal Judicial Security: Comprehensive Risk-Based Program Should Be Fully Implemented. Washington, DC: United States General Accounting Office, 1994.

This research examines the risks of this environment in depth (Chapter 2), the ideal security program (Chapter 3), and alternatives to the traditional judicial security management structure (Chapter 4).

Garrett Metal Detectors. *Courthouse Security Screening with Metal Detectors: A Basic Planning Handbook.* Dallas, Tex.: Ram Publishing Co., 1993.

This book stresses the importance of metal detectors in maintaining court security. It explains how they work (Chapter 2), the need to keep the three areas of a courthouse, the public zone, the private (judicial) zone, and the inmate zone, separate (Chapter 3), the different types of walk-through and hand-held detectors (Chapters 6 and 7), detectors for ground security (Chapter 8), and a glossary of terminology.

Geiger, Fred A. “Safety First: A Guide to Courthouse Security.” *Court Manager*. Summer, 1989 (p.14-17 and 42).

This article highlights the importance of court security in order to maintain the integrity of the judicial system. It addresses specifically the issues of entry screening and perimeter security devices, and stresses the importance of good security personnel.

George, Delilah M. *Courthouse Security in Snohomish County.* Williamsburg, Va.: Phase III paper, Court Executive Development Program, Institute for Court Management, 1996.

This report discusses the major themes in the development of a courthouse security plan, such as the evaluation of court facilities (Chapter 4.4) and the necessary equipment for such a program (Chapter 4.7), and delineates the causes behind the rising trend in violence in the courts (Chapter 3).

Griebel, Michael, and Todd S. Phillips. “Architectural Design for Security in Courthouse Facilities.” *The Annals of the American Academy of Political and Social Science*. July, 2001.

This article defines the basic purpose of courthouse security as upholding the integrity of the judicial system and describes various aspects of security, including the need for separate parking facilities, appropriate location of a courthouse, and the different security needs of the various courts.

Hardenbergh, Don. “The Future of Court Security.” *Future Trends in State Courts, 2004.* Williamsburg, Va.: National Center for State Courts, 2004 (p. 116-118).

This article focuses on the importance of a safe environment, threats and risk assessment, and the minimum countermeasures needed for future court security. It outlines the risk assessments for everything from earthquakes to terrorism.

Hathcock, Jesse. *Improving the Security of Missouri Trial Courts*. Williamsburg, Va.: Phase III paper, Court Executive Development Program, Institute for Court Management, 2001.

This case study describes court security reform in Missouri trial courts. It also features excellent tables, which summarize the author's survey findings. Tables include, for example, information on the type of most frequent security incidents, weighted responses to security concerns, potential sources of violence in the court and physical security measures for courthouses.

Illia, Kevin R. *Court Security: Calm in the Court House*. The National Judicial College, 2000.

Author Kevin Illia, a former special agent of the FBI and a court administrator for security of the Circuit Court of Cook County in Chicago, Illinois, covers numerous security issues in 13 chapters. In two separate chapters, he provides information on securing the courthouse (Chapter 4) and on the role that electronic security plays in the overall formation of the security plan (Chapter 10).

Murer, Amanda. "Communication is the Key in Court Security." *2002 Report on Trends in the State Courts*. Williamsburg, Va.: National Center for State Courts, 2002.

The article includes questions court administrators can ask to help assess the quality of security present in their courthouse. It also includes a brief description of recent trends seen today to modify and improve court security. For example, courts are communicating more effectively within the justice community and with other government agencies. Courts also are viewing court security as a global issue, with the primary directive of guarding the institution as a whole instead of focusing on merely protecting individuals.

Reinkensmeyer, Marcus W. [et al.] *Court Security Guide*. Williamsburg, Va.: National Association for Court Management, 1995.

This guide focuses on the "development of a comprehensive court security program." It includes sections on the planning of such a program (Chapter 3), various policies to consider (Chapter 5), and the range of equipment available (Chapter 7).

Sammon, Mary T. *Akron Municipal Court: Security Policy and Procedure Plan*. Williamsburg, Va.: Phase III paper, Court Executive Development Program, Institute for Court Management, 1999.

The author of this paper suggests, "appropriate levels of security should exist in the Court to protect the integrity of court procedures, protect the rights of individuals before it, deter those who would take violent action against the Court or litigants, sustain the proper decorum and dignity of the Court, and assure that Court facilities are secure for all those who visit and work there." She presents twelve different standards that should exist in a court facility, such as the security policies for various threats (Standard 1) and the effect a security policy should have on the structural design of a courthouse (Standard 11). Standard 1 states that a written security policy and procedure manual governing security of the court and its facilities shall be established to ensure adequate security procedures. This manual should include a physical security plan, routine security operations plan, emergency/evaluation plan, special operations plan and lastly, a hostage situation response plan. Standard 11 states that new construction of court facilities should include circulation patterns that govern the movement of people in the courtroom. Separate routes for

judges and prisoners and waiting areas should be available to separation of parties.

Weiner, Neil Alan, and Don Hardenbergh. "Understanding and Controlling Violence Against the Judiciary and Judicial Officials." *The Annals of the American Academy of Political and Social Science*. July, 2001.

This article's goal is to examine court violence in order to better develop protocols for dealing with the various types of court violence.

Wisconsin Courthouse Security Manual. Madison, Wis.: Wisconsin Supreme Court, 2000.

With the participation of the Wisconsin Sheriff's Association, the U.S. Marshal's Office, and the Director of State Courts, this manual is meant to "equip law enforcement officers, judges, clerks of court, and other county officials with the information necessary to customize a comprehensive security plan for their courthouses." It presents the physical security of a courthouse (Chapter 2), routine security procedures (Chapter 3), security procedures for court proceedings, including the effects on courtroom design (Chapter 4), and the security issues for other offices (Chapter 5).

Unified Facilities Criteria (UFC): DoD Minimum Antiterrorism Standards for Buildings, Washington, D.C.: U.S. Department of Defense, 2003. Available at http://www.ccb.org/docs/UFC/4_010_01.pdf (July 19, 2005).

The Unified Facilities Criteria system provides planning, design, construction, sustainment, restoration, modernization criteria and minimum construction standards to mitigate antiterrorism vulnerabilities and terrorist threats. See section 1.6.1 on New Construction.

Physical Access

The Americans with Disabilities Act (ADA) requires courts to modify policies, practices, and procedures to prevent disability discrimination; remove architectural and communication barriers; and provide accessible services. These requirements have forced court systems across the country to confront difficult questions regarding how best to accommodate individuals with disabilities and improve their access to the courts. The steps that will be taken to ensure physical access to the facility must be addressed at the onset of planning and design. Titles listed below are excellent resources aimed at assisting planners in addressing courthouse access issues.

ADA Resource Center for State Courts: Advisory Committee Meeting, Briefing Materials. Williamsburg, Va.: National Center for State Courts, 2001.

These briefing materials, from the Americans with Disabilities Act (ADA) Advisory Committee Meeting, focus on the implementation of ADA requirements in state courts. They include useful frequently asked questions (Tab 3) and background reading material including settlement agreements and relevant case law (Tab 4).

Adaptive Environments Center, Inc. and the National Institute on Disability and Rehabilitation Research. *ADA Title II: Action Guide for State and Local Governments*. Horsham, Penn.: LRP Publications, 1992.

This publication focuses on Title II of the ADA, which requires that "state and local entities provide equal opportunity to people with disabilities to participate in programs, services, and activities." This book provides a basic overview of Title II, including its requirements (Chapter 1), steps towards preparing for implementation

(Chapter 2), the three phases of implementation (Chapter 3), and worksheets to evaluate the process.

Affirmative Action Office. *Disability Access to Judiciary Programs, Services and Activities*. Honolulu, HI: Judiciary of the State of Hawaii, 2001.

“The purpose of this manual is to provide judges, program and court managers, and staff with a reference guide when planning or administering a program, service, or activity to ensure equal inclusion of individuals with disabilities.” Chapter 11 deals specifically with facility access for disabled persons.

Launius, Phyllis S. *Removing Public Access Barriers to the Courts in the New Millennium: A Sampling and Analysis of Missouri’s Trial Courts*. Williamsburg, Va.: Phase III paper, Court Executive Development Project, Institute for Court Management, 2000.

This title focuses on the relationship between the courts and the Americans with Disabilities Act providing results of research in four specific counties concerning the implementation of the ADA and then providing recommendations to remove any barriers, such as “altering existing facilities, relocating services to an accessible site, or providing an aide to assist the individual in obtaining the service.”

Trial Court Performance Standards, Standards 1.2 and 1.3. Williamsburg, Va.: National Center for State Courts, 1990 (p. 8-9).

These standards specify that trial court facilities should be safe, accessible, and convenient to use and allow participation by all. Among the factors listed in the accompanying commentary and measures are: centrality of location; availability of public transportation; the internal layout of the court buildings; the signs that guide visitors to key locations; the audibility of courtroom participants; and accommodations for blind, hearing-impaired, mobility-impaired, and speech-impaired participants.

Wood, Erica, Jeanne Dooley, and Naomi Karp. *Court-Related Needs of the Elderly and Persons with Disabilities: Recommendations of the February 1991 Conference*. Washington, DC: The American Bar Association, 1991.

The recommendations provided in this publication focus on the idea of a “universal design” which meets the needs of all persons. It provides thirteen recommendations, including access to the court system, that provide concrete steps for ensuring “equal justice for all” (Chapter II).

Informational Access for Unrepresented Litigants

Today more citizens are choosing to represent themselves in court. Courts, therefore, must address several issues concerning accessibility. Current methods for addressing the needs of self-represented litigants include: self-help centers, one-on-one assistance, court-sponsored legal advice, internet technologies, and various collaborative approaches. The materials selected below outline both the needs of self-represented litigants and offer courts guidelines to consider when planning court facilities. Also listed below are instructional titles designed to assist modern day courts in receiving and disseminating information electronically.

Goldschmidt, Jona, Barry Mahoney, Harvey Solomon, Joan Green. *Meeting the Challenge of Pro Se Litigation:*

A Report and Guidebook for Judges and Court Managers. Chicago, Ill.: American Judicature Society, 1998.

This guidebook examines the day-to-day challenges presented by unrepresented litigants and offers practical recommendations for many of the problems courts and litigants encounter during self-representation. Of special interest is the section, "Responding to the Challenges: Court Initiated Programs and Services" (p. 69), where there is a discussion of self-help centers and use of Internet to access court forms.

Lane, Kevin. *Is the Long Beach Self-Help Center Meeting the Family Law Needs of the Court and the Community?* Williamsburg, Va.: Phase III paper, Court Executive Development Project, Institute for Court Management, 2004.

Recent trends in new court houses have been to create self-help centers for unrepresented litigants to file and review cases on their own using computer workstations that provide electronic and online forms. Do they work? This research paper examines a family law center in Long Beach, California, and makes some structural recommendations on how the center can be improved.

McMillan, James E., J. Douglas Walker, and Lawrence P. Webster. *A Guidebook for Electronic Court Filing.* St. Paul, Minn.: West Group, Inc., 1998.

This comprehensive guide to electronic court filing presents a detailed examination of the benefits, the technical requirements, the policy issues, and the implementation process for electronic filing. Of particular interest is the chapter on the technology infrastructure needed to guarantee success for the implementation of electronic filing (see Chapter 6).

Owen, Charles L., Ronald W. Staudt, and Edward B. Pedwell. *Access to Justice: Meeting the Needs of Self-Represented Litigants.* Boston, Mass.: Pearson Custom Publishing, 2002.

This comprehensive 441-page guide offers the reader an in-depth discussion of the feasibility of redesigning court processes that improve access to justice for self-represented litigants.

Prototype Document for the Establishment of a Self-Service Center Program for Self-Represented Litigants (One Stop Shop). Maricopa County, Ariz.: Maricopa County Superior Court, 1995.

This detailed document examines all aspects of developing a court program that will offer information and direction to individuals who wish to represent themselves in legal actions. Specifically, this guide highlights electronic delivery systems requirements (p. 22-26) as well as site requirements (p. 26-29).

Zorza, Richard. *The Self-Help Friendly Court: Designed from the Ground Up to Work for People Without Lawyers.* Williamsburg, Va.: National Center for State Courts, 2002.

This title is to assist people without lawyers to navigate through the judicial process. Part 2 of the Self-Help Friendly Court examines the physical and technological environment of the courthouse. Chapter 5 discusses the needs of designing the physical courthouse for providing help, education, and equality, and Chapter 6 addresses technological systems designed to inform, assist, narrow and support.

Technology and Courthouse Design

Courts are increasingly reliant on technology for recording court proceedings; managing documents and records; communicating internally and with lawyers, litigants, and the public; presenting evidence at trial; and protecting vulnerable parties. Therefore, courthouse design must take cognizance of the rapidly changing and expanding array of court technologies.

Boxwell, Charles E., Todd S. Phillips, and Lawrence Walker. "Technologies & Courthouse Design: Challenges for Today and Tomorrow." *Court Manager*. Summer 1997 (p. 7-10).

This article from the Court Manager highlights the need for current courthouse design strategies to accommodate properly the necessary technology required in today's facilities. What is stressed here is the importance of more collaboration between the justice system and design professionals.

Building a Better Courthouse: Technology and Design in New Court Facilities, Participant Guide. Williamsburg, Va.: National Center for State Courts, Institute for Court Management, 2003.

This guide offers brief outlines on several topics, such as courtroom technology design issues, security issues affecting courthouse planning and design, and the construction process.

Jury Facilities

Jurors play a vital role in the litigation process. Our judicial system protects the rights of the litigants and the witnesses, but few protections and reassuring accommodations are afforded to jurors. Courthouse design and planning must address the pressing need for suitable, comfortable areas that are used by jurors. Safe, pleasant waiting facilities and deliberation rooms are crucial to the judicial process. The titles list below address the issue of providing jurors with a secure, pleasant physical environment.

Bleyer, Kristi, Kathryn Shange McCarty, and Erica Wood. *Into the Jury Box: A Disability Accommodation Guide for State Courts*. Washington, DC: The American Bar Association, 1994.

Trial by jury is an essential component to the judicial system and "access to the jury service is, therefore, critical." Focus is placed on the entire jury system from selection (Chapter 3.A) to accommodation throughout the process (Chapter 3.B).

Casey, Pamela. *Through the Eyes of the Juror: A Manual for Addressing Juror Stress*. Williamsburg, Va.: National Center for State Courts, 1998.

This publication addresses the challenges, needs, and frustration often experienced by jurors. Despite their vital role to the judicial system, the court can be surprisingly unaccommodating to them. See page 46 for a discussion on providing a pleasant physical environment. Also, juror safety concerns and security issues are stressed in this title

where emphasis is placed on alleviating juror uneasiness.

Smith, J. MacGregor, ed. *Guideline for the Planning and Design of State Court Programs and Facilities, Volume B*. Champaign, Ill.: National Clearinghouse for Criminal Justice Planning and Architecture, 1976.

This volume, entitled Jury Facilities, stresses the importance of proper jury facilities that aid in the orientation of jurors to the trial process, the identification and processing of jurors, and the proper accommodation during the voir dire and impaneling processes. It includes numerous floor plans of the various areas of a courthouse used by jurors, such as general floor plans suggesting the proximity of jury facilities to other areas of the courthouse, the entrance and registration areas, the jury clerical processing area, the juror lounge and assembly, and impaneling spaces.

Standards Relating to Juror Use and Management. Chicago, Ill.: American Bar Association, 1993.

Standard 14 urges that:

Courts should provide an adequate and suitable environment for jurors with an entrance and registration area that is clearly identified and appropriately designed to accommodate the daily flow of prospective jurors; offer pleasant waiting facilities furnished with suitable amenities; provide deliberation rooms with space, furnishing, and facilities conducive to reaching a fair verdict; safety and security; and, to the extent feasible, minimize contact between the jurors, parties, counsel, and the public.

CANADIAN LITERATURE

Standards

Province of Ontario: Architectural Design Standards For Court Houses. Toronto, ON,; Ministry of the Attorney General, 1999.

This report presents an overview of the detailed specifications required for the space within a courthouse facility. Design considerations along with an explanation of format standards are provided, and are applied to standard courtroom and related areas, judges chambers and related areas, law association space, crown attorney and support areas, holding area and related functions and administration.

The recommended standards reflect on the standard size of a courtroom that will accommodate the present SCJ court and the OCJ. In general, a single integrated facility will avoid the inefficiencies of unused courtrooms which occur because courtroom capacity is dictated by peak load requirements at each level of court.

It is suggested that a standard courtroom located in an integrated facility will mean that a scheduling approach can be established for the facility that will maximize court utilization.

A focus on component planning will facilitate the use of computers in the immediate future and allow for unknown changes in the long term.

The report also enumerates all the activities that occur within a courtroom and adjacent related areas. Judges chambers and adjacent space was another major focus of the report which presents a detailed description of judges chambers and required furnishings.

Law associations, Crown Attorneys and support areas have space requirements as well. The law association requires that a number of books a must be housed in the library along with a minimum area for study research. The report describes the standard office space and furnishings requirements for the Crown offices.

There is a detailed discussion of security concerns for the holding area, its cell area, and areas leading to the courtrooms.

In the administrative area, staffing requirements for work areas, and storage space utilizing lectrivers are discussed. Other day-to-day administrative needs, such as exhibit storage, photocopier rooms and mailrooms, are also discussed in this consideration of administrative needs.

History & Planning Processing Roles

Court House Planning Handbook – Volume 1. Toronto ON.: Management Services Branch; Ministry of the Attorney General.

This report describes the history of courthouses in Ontario and how they were connected to the social fabric within the Province. The first courthouse in Ontario was constructed in 1792. The early courthouses were fine Victorian structures, and they traditionally housed both the courts and district or county administration.

Changes to the structure of trial courts was initiated in the 1980s. Legislative changes established the Ontario Court of Justice with two divisions. This consolidation became reflected in architectural design through the concept of a consolidated courthouse. The consolidated model supports all court functions under one roof, on one site, and located in an urban core area. By the 1990s, the provincial government funded a number of court facilities, or renovations that were based on the consolidated model. Among the sites chosen were Brampton and Hamilton. A theme noted throughout the report is the need for design and flexibility to ensure that such future structures can meet the constantly changing requirements of the justice system.

The report also highlights a partnership model that seeks to integrate the courthouse function in the community, within larger multi-use complexes that were to be built in partnership with the private and broader private sector. The partnership model consolidates the court functions on one site, but has a separate core to house non-core functions. The consolidated model was influenced by the Ontario Courts Inquiry 1987 (Zuber report) while the partnership model was influenced by the government's creation of the Super Build Corporation with its emphasis based on joint capital ventures and cost sharing.

It is noted that the preconditions for the success of the partnership model would depend on how the core and non-core functions were defined and how clearly any adjacencies would be designed into the complex.

Assessment Evaluation of Current Status

Phase 1 Evaluation of Courthouses, Registry Offices & Correctional Facilities. Toronto ON.: Ontario Realty Corporation. Project Number: K80002, 2005.

The evaluation of courthouses in Ontario is a complex task. Courthouses, registry offices and jails were important, complex cultural statements about the province's past. This report provides a history of court facilities and an

explanation as to why courthouses were built along the waterways of Ontario. The report describes how demographics changed the boundaries for districts/counties and describes the physical additions required by the courts to accommodate these changes.

In the 1850s, as the province's population increased, new judicial districts were created and boundaries changed. The government provided funds for the building of courthouses, registry offices and jails, and they also directly supervised their construction and design. This changed from 1867 to 1930, as the province's Chief architect became involved in the design and construction of courthouses, leading to uniformity in design and scale.

Courthouses, registry offices and jails were once intimately connected to one another, architecturally, spatially and functionally. During the 19th century all were co-located because all three were the responsibility of and built by a district or county. By the mid 20th century, changes in approaches to adult and juvenile offenders led to provincial funding for construction of a new type of jail, many of which were located outside of the urban areas.

Presently, many of the 19th century courthouses are still used by the justice system. Demands placed on these buildings have been stretched to the limit and most can no longer absorb any further structural changes.

In 1987, the Attorney General outlined priorities for the building or renovating of courts. In 1994, the Ontario Infrastructure Works Program Heritage Restoration/Heritage Compatible Upgrade was approved, which provided a boost to proponents supporting the retention of the 19th century courthouse facilities. In 1999 the province provided 265 million to renovate or build new courthouses throughout the province. In 2001, the Task Force on Correctional Facilities commented on the architecture and arrangement of space in courthouses. They prepared a list of required spaces and issues to be addressed when assessing the adequacy of the buildings. The extensive list noted the need for: courtrooms, judges chambers, Crown Attorney offices, robing facilities, client meeting rooms for lawyers, libraries, other administrative offices spaces, holding facilities, disabled services, witness rooms, jury rooms, media rooms, parking, and washrooms.

Approaches to Efficacies

JUSTICE DELAY REDUCTION INITIATIVE. Ministry of the Attorney General.

This report focuses on three distinct areas. 1) The Justice Delay Reduction Initiative, 2) Child Protection Cases, and 3) Comparative Delay statistics in American Jurisdictions.

The Ontario court system has adopted more efficient and effective ways of doing business despite their productivity gains with the number of charges received as opposed to the number of charges disposed. The increase resulted in court congestion particularly with criminal cases and child protection cases.

In November 1996, the Attorney General commenced a backlog reduction initiative in an effort to reduce the overall number of charges with the focus on charges over 8 months old. In 1997, performance measures were put in place that would monitor the extent of the criminal case backlog each year.

Also in 1996, the MAG initiated a criminal court blitz with the cooperation of the judiciary and defense bar. Six of the most congested court locations in the province introduced more efficient case management practices and improved utilization of resources, leading to a reduction of the inventory of charges pending by 17.3 % in all 6 locations.

With the success of the blitz the ministry built on their experiences by identifying and establishing best practices.

Mobile courts were set up in 2001-02, which included 6 judges and 6 assistant Crown Attorneys that would rotate every 4 months from one community to another. Neither court support staff nor courtrooms would be included with the mobile courts. All of the mobile court sites saw a reduction of the average time to trial, but after the removal of the mobile courts, the average time increased at each site.

In order to maintain the reduction in cases pending, it would require:

- 1) *A fully functional court including a number of key players and support staff.*
- 2) *Judicial appointments which would be phased in over a two-year period, allowing for the appropriate chambers and courtrooms to be built and court support staff to be hired.*
- 3) *Extra resources for victims of crime.*

The paper also suggests that an interim plan will need to be in place and the ministry may be required to use additional minor capital funding to have temporary office space for judges and courtrooms along with space for additional support staff. Finally, a long-term plan will need to be developed for new major and minor capital expenditures.

Child protection cases have increased in the province, and all family courts in Ontario are experiencing the same pressures. Even though there is a 120-day deadline for resolution, that deadline is not met in the majority of cases.

Finally, there is a report on comparative delay statistics in 6 cities in the U.S.A. Each location was asked how long it would take for the average impaired driving case and the average domestic violence case to make it from charge to trial.

Approaches to Efficacies

Criminal Case Management Protocol- August 12, 2004. Toronto, ON,: Effective Scheduling Working Group Of the Criminal Justice Steering Committee. Presented to The Justice Summit, 2004.

In 2003 the Criminal Justice Steering Committee was directed to report to the 2004 justice summit on effective scheduling practices. Their task was to identify ways of ensuring that the criminal cases be scheduled effectively and be processed through the courts in a manner that ensures that they are completed without delay.

The group recommended the implementation of streamlined case management practices across the province, accompanied by a protocol put in place to assist various members of the justice sector. The protocol would address all aspects of case management in the Ontario Court as well as the roles to be played by various members of the justice sector.

The protocol would be designed to address the problems of systemic delays with the Ontario Court. It would

identify best practices in all sectors; practices that promote the efficient movement of cases through the court and preserve and promote the rights of all persons charged with a criminal offence, and process the charges in a timely and efficient manner.

It was found that many local jurisdictions have implemented systems to deal with some aspects of case management. The Effective Scheduling Working group examined different systems and identified those systems that were particularly effective. In turn, these systems and practices became part of the recommendations for implementation throughout the province.

The group also endorsed many of its recommendations of the “Martin Committee Report.”

The report also suggested that since the Crown Attorney’s office would not be large enough to permit a dedicated team of Crown counsel performing exclusively case management functions, that Crown counsel may be assigned to both case management and trial functions, with each Crown Attorney’s office devising a case management system that would benefit the requirements of their own office structure and size.

Security

Court Security Project – Final Report December 10, 2002. Len Griffiths- Court Security Project Lead, 2002.

The project was commissioned to assist the Ministry of the Attorney General in developing a plan to address facility related security risks and to prioritize the needs that would contribute to the development of a longer-term infrastructure investment strategy. A second objective of the project was to contribute to the decision-making process related to court security minor capital expenditure priorities.

A private consulting firm was contracted to develop a risk assessment tool and a court security survey instrument. The risk assessment tool allows court facilities to be evaluated in terms of their value as a corporate asset and to their level of risk. The court security survey instrument was designed to gather data on the security measures in place at a courthouse.

The surveys were administered to 90 primary court sites by court services division.

The results of the surveys determined that 82% of the courts were deemed to require basic or good security measures. 18% were rated as requiring medium or good to above average measures. None required the establishment of exceptional security measures, although there was a large data gap noted across a number of areas.

The report also presents many key observations, options, and recommendations.

Planning Processes/Roles

Moorhouse, Richard. *P3 COURTHOUSES*. Toronto, ON,: OAA, Director; Justice Sector; Facilities Branch; Ministry of the Attorney General.

This power point document focuses on three general areas, a history of Ontario courthouses, new approaches with the partnership model, and project tips.

In Ontario historically, courthouses were usually located in a county seat and the construction was usually the responsibility of the County. In fact, some structures built in the 1800s are still in use.

Satellite courts started to emerge in the 70s and were developed to service outlying communities or regions. There was also sporadic new construction from 1960 to 1980. Presently, there is a large and diverse collection of courthouses in Ontario, and many of them are in need of repair and replacement. As a result of a recommendation (Zuber) that the two levels of court should be consolidated into one single facility and that all courthouse designs should be based on provincial standards, many courthouse locations were identified for capital investment.

Of note is the observation that at the same time that there was a need to have consistent quality design standards along with acceptable risk sharing, the Ontario government was moving towards divesting ownership of public buildings.

This document discusses both the core and non-core functions with the courthouse facility. The view was to integrate courthouses within a larger multi-use complex, which could house offices, retail and commercial space. In addition, the complex could also house a community center, library and possible municipal office and social agency groups.

The report commented on the benefits of a partnership model saying that it would reduce capital expenditure and expand opportunities for private and broader public sector. The report also stressed that the facility should be flexible to accommodate future needs.

Finally, there were many project tips offered in the report that gave excellent guidelines as to what steps should be taken into consideration with planning a court facility.

Planning Processes/Roles

Facilities Management Services Branch – Assessment Report. Ottawa, ON.; SYPHER: MUELLER International Inc., 2001.

The Director of Facilities Management Services Branch (FMSB) retained the firm of Sypher: Mueller to conduct an assessment of the organization in support of the development of a Branch Business Strategy. Their objective was to reposition the FMSB to effectively meet its mandate to provide facility management advice and operational services to client Ministries comprising of the Province of Ontario's Justice Sector- Attorney General, Correctional Services and Solicitor General.

The report states that FMSB is responsible for strategic administration and corporate controllership of a diverse portfolio of 800 sites, comprising 1300 buildings and encompassing 12 million square feet of space. Clients and stakeholders that were interviewed perceived vestiges of a "silo mentality" between the three ministries. There was strong support for the development of a Branch Business Model that would identify Strategic Planning, Project Delivery and Service Management.

The report supported a proposed governance model with three objectives that would enable the Deputy Ministers' Committee to better exercise their accountability, ensure an integrated approach to strategic facilities and improve

the quality and level of service.

They also suggested a new committee called “ADM Facilities Advisory Committee. This committee would report to the Deputy Ministers’ Committee and be responsible for the development of an integrated real property and investment strategy for the justice sector.

Once the strategic framework and service agreements were to be in place, an ORC service agreement would be expedited.

Planning Processes/Roles

Ministry of the Attorney General Infrastructure Plan – 2005-06 – Summary- December 10, 2004. Toronto, ON,; Ministry of the Attorney General. Office of the Deputy Attorney General and Deputy Minister Responsible for Native Affairs. 2005.

This report focuses on the need to address a \$1billion infrastructure deficit and details increasing stakeholder and community concerns. The report also speaks to the need for a MAG internal infrastructure strategy. There is also discussion regarding alternative financing and the Greater Golden Horseshoe Growth Plan. The plan attempts to link ministry priorities to the government’s transportation agenda, particularly the MCSCS proposal on jail closure and the impact of the remand strategy as it affects Toronto. The report discusses opportunities to accelerate reinvestment in courthouses through innovative approaches to financing and to fulfill the requirement and provide five and ten-year infrastructure plans.

In 2004/05 the ministry articulated an internal, non-investment related strategy. That strategy would look at the review of the overall infrastructure deficit, development of the asset management plan, review of sector impacts and review of accommodations of business practices.

There would be an investment of \$76 million in 2004/05, including \$18 million for the JDRI project and \$10 million for Pembroke. An average of \$32 million for each of the following three years would be needed. The investment of just over \$223 million over 10 years would be required to address the \$1 billion investment deficit.

It is suggested that the ministry would have to be flexible to address the investment deficit through alternative financing. The report recommends that the Ministry be directed to work with MPIR on next steps in prioritizing alternative financing candidates and applying the framework to achieve measurable progress in the following year.

The report presents an infrastructure strategy base plan and suggests a 3-5 year infrastructure strategy, listing the top infrastructure projects and then completing an update on the 10 year infrastructure plan.

It is noted that the ministry has a transformation plan that has identified a requirement for capital investment of \$72 million to support their transformation agenda in making Ontarians safer in their communities, better protecting Ontario’s children and making Ontario a safer place for victims.

Infrastructure needs assessments were identified along with major infrastructure issues. A number of principals that the ministry would follow to support their goals are explicated.

Finally, there is a presentation of investment priorities to support and move forward on applying the AFP framework to its courthouse investments, along with a recognition of the Places to Grow Legislation and the impact of courthouse development.

Planning Processes/Roles

Service Agreement. Ontario Realty Corporation- Strategic Solutions; Sound Advice, 2005.

The purpose of this service agreement report is to formalize expectations, roles and responsibilities, between the Ontario Realty Corporation (ORC) and the Ministry with respect to the delivery of real estate and accommodations services.

The report outlines the guiding principals that govern how the ORC and the ministry work together. It also covers accommodations services that ORC provides to the ministry.

There are a number of service standards that the ORC provides for its core services and strategic planning, project management and property management services.

There is information about ORC relationships to other agreements along with an overview of the roles and responsibilities for Management Board and ORC and the ministries that are relevant to real estate and accommodations.

The ORC provides a number of strategic planning services to the Ministry and also assist the Ministry with their requests on behalf of the broader public sector initiatives for infrastructure funding and developing preliminary options to alternative financing strategies.

There is also a full range of project management services discussed in the report ranging from major capital projects, to alteration projects and capital repair.

Assessment Evaluation of Current Status

Satellite Courts In Ontario – A Review of Locations: Can the network be rationalized? Toronto, ON.; Facilities Planning Unit, Corporate Planning Branch, Court Services Division, 2004.

This Ministry report was designed to improve its infrastructure planning approach and reviewed its satellite court network across the province in order to determine whether the network could be rationalized. The report was completed in the fall of 2004 and was included as part of the Ministry's report back to Management Board Cabinet in its 2005/06 infrastructure plan.

The current satellite court network in Ontario is comprised of 94 operating satellite courts and 7 non-operating satellites, which have valid leases but no hearings. There are a total of 103 satellite courtrooms housing approximately 250,000 square feet of space with an annual gross rental cost of \$3.6 million.

The report also noted that thirty, or, 29% of the 103 satellite courts/courtrooms were eligible for closure based on the evaluation criteria used in the review, yielding a cost savings of \$196,655. It was also concluded that twenty (67%), of the courts/courtrooms could be closed immediately with no significant community or court operations impact, again leading to an immediate lease cost savings to the ministry.

It was noted that every region in the province has satellite courts that could be closed. The report also recommended that the necessary consultation with the judiciary and other stakeholders and decision-making processes be put in place so that the MAG could provide the direction to implement a satellite courts closure strategy.

Finally, it was recommended that clear policies and procedures be put in place for identifying and taking action on courthouses that should be closed in the future.

Assessment Evaluation of Current Status

Province of Ontario, Court Facilities by Region. Toronto, ON.; Court Services Division Corporate Planning Branch, Facilities Planning, 2004.

The document is an assessment of existing base courts, and satellite courts, broken down by region. It presents information as to whether facilities are third party leased or government owned.

The report describes what a court facility is and notes if the facility is located in an upper tier or lower tier municipality. The report also notes all court facilities, and classifies them as either base courts, satellite courts, or satellite courtrooms.

The report is then sub-divided into a region-by-region report with a detailed description for each court location, and identifies it as a base court or third party lease, or government owned. Finally, courts are differentiated as either Ontario Court of Justice or Superior Court of Justice, and addresses are provided for each court.

Assessment Evaluation of Current Status

Law Society of Upper Canada- Task Force on Courthouse Facilities. Toronto, ON, and Vancouver, B.C.; Strategic Communications Inc.

This detailed report presents the findings of a Task Force on Courthouse facilities questionnaire that was drafted and distributed by the Law Society of Upper Canada during the spring/summer of 2000 and was conducted by Strategic Communications.

The report is based on 152 self-administered questionnaires comprised of 154 questions of which 27 were open ended in whole or in part.

Contained within the report is information about heritage/historical courthouse facilities, and provides a brief comparison between heritage and non-heritage courthouse facilities using some of the key indicators of courthouse facilities that were identified throughout the report.

The results revealed a variety of problems with respect to courthouse facilities in Ontario ranging from few if any problems to a listing of 78 courthouses or four-fifths of Ontario's courthouses with a list of extensive problems. Among the issues noted were: insufficient/ inadequate space, security concerns, health and safety/air quality and disabled access.

Signage

2004/05 Exterior Signage Standards – Court Services Division. Toronto, ON,: Court Services Division, Corporate Planning Branch, Facilities Planning, 2004.

This report by the Corporate Planning Branch and Facilities Planning Branch identified, as of fiscal year 04/05, 76 base court sites that required exterior signage to be brought up to ministry standards.

A number of base courts were identified for new exterior signage and every region required upgrades with their signage.

Also, because some sites are historical/heritage sites the upgrades may not be possible. In this case, the Facilities Managers of Courts had to obtain approval from the on-site property management company to replace any existing exterior signs.

The Ontario Realty Corporation retained a signage consultant for site-specific requirements. The signage consultant was to adhere to standards provided to them by the ministry. The report also gave an exterior signage costing which was broken down into regions and base court sites with a total costing for each region.

Support to Victims

Special Project Report: Review of Courthouse Facilities for Victims/Witnesses of Crime.
The Office for Victims of Crime, 2004.

This report presents recommendations for courthouse standards from the point of view of the Office for Victims of Crime. Among the groups surveyed for this project were: Victim/witness respondents, Police service respondents, Victim service respondents, and some community agency respondents.

It is strongly recommended in the report that the Ministry should enact a Court Facilities for Victims of Crime standard as recommended in section 29(2) of the Provincial Victim Service Standard Regulation.

It recommends that every Ontario and Superior Courthouse in Ontario should have a separate, safe and secure adult victim witness area and Child-youth waiting area. These areas should be in close proximity to the Crown Attorney's office and the Security office, but situated far from many of the other court function offices within the facility. The report suggests that the offices be located in low public traffic areas, with separate and secure outside entrances to the waiting areas. They suggest that the waiting areas should be secure from the general public.

The committee also suggested that all of the recommendation be expanded across the province and that the Ministry conduct a comprehensive security audit for all of Ontario courthouses so that there would be a creation and implementation of equitable security standards.

Finally, it is suggested that the Ministry should ensure equitable access to court-based services by addressing regional disparities and geographic gaps.

Brampton

Brampton Courthouse -Facility Program. Toronto, ON,: Resources Management Consultants Ltd., 1992.

The Ministry of Government Services commissioned RMC Resources Management Consultants Ltd. to prepare the facility specifications for a consolidated courthouse in Brampton. The report also considered recent legislative changes to the court's structure, as well as the impact of demands and trends that were expected to characterize the court's planning in the future.

The consulting firm was asked to maximize the specifications utilizing all resources including operations, facilities, technology and staffing.

The courthouse was to house 52 litigation spaces with 40 courtrooms and 12 motion/hearing rooms. There were to be 19 jury deliberation rooms adjacent to 19 jury courtrooms, and 40 courtrooms and 2 of the motion/hearing rooms were to have access to the prisoner handling system. There was also to be space for 52 judges.

The number of courtrooms and judges specified as a basis for the Brampton courthouse was determined by demand forecasting, cited by the Ministry of the Attorney General prior to the commissioning of the facility program.

Using the space standards outlined by the Ministry of the Attorney General, RMC incorporated non-specialized courtrooms designed with the capacity to add future courtroom technology and adapt to changing uses, eg. jury, non-jury, and prisoner handling through the use of modular furnishings.

The notion of specialization of courtroom usage was introduced by the clustering of courtrooms (all non-specialized in design) adjacent to specialized ancillary spaces.

There were to be three separate and self-contained circulation routes, resulting in three separate zones; public, private – (judges and restricted staff) - and a secure prisoner zone with an interface at the courtrooms.

High traffic functions were to be segregated from those of low traffic by sizes of major circulation routes, locations within the facility as well as relative proximity to the main entrance. Security was to be a major concern and consideration in the Brampton Courthouse and a series of criteria are presented to the reader with regard to security concerns.

The report also focused on customer service within the facility, and noted that there should be a display of openness to the facility and efficient communications and traffic patterns.

APPENDIX D

Superior Court Criminal

TABLE 25

2004 Case flow data	Brampton	Ottawa	Hamilton
NEW CASES	428	481	196
EVENTS HEARD	3335	610	357
COURTROOM HRS.	6312	2715	1778
AVG. TIME PER EVENT	1.9 hrs	4.5 hrs	5.0 hrs
DISPOSED	370	392	171
PENDING	303	274	154

While changes to the Criminal Code of Canada over the past ten years have shifted much of the criminal caseload to the Ontario Court of Justice, the Superior Court of Justice continues to hear the most serious criminal matters, including all jury trials. Brampton received the highest number of new proceedings in 2004 with 428 new cases, followed closely by Ottawa with 418 new cases. Hamilton reported just less than half this caseload with 196 new cases received in 2004.

SUPERIOR COURT CRIMINAL NEW PROCEEDINGS RECEIVED

TABLE 26

CHARGES CASE FLOW DATA 2004	BRAMPTON		OTTAWA		HAMILTON	
	2004	% Change 5 Yrs	2004	% Change 5 Yrs	2004	% Change 5 Yrs
Total	428	51.2%	418	24.4%	196	25.65%
Criminal Code	237	50%	251	45.9%	117	--6.4%
Federally Prosecuted	103	83.9%	94	74.1%	50	614.3%
Appeals	88	31.3%	73	35.5%	29	20.8%

The Brampton court has experienced the largest increase in new proceedings over the past five years, with an increase of more than 50% between 2000 and 2004. Ottawa and Hamilton reported a rate of growth of around 25%. Federally prosecuted matters, including drug offences, accounted for the highest rate of growth in all three courts.

Throughputs

The number of events heard for criminal matters in each location and the corresponding courtroom hours reported for these events is shown in Table 25. Although the number of new proceedings in Brampton and Ottawa was comparable in 2004, Brampton heard a significantly higher number of events (3,335 events reported in Brampton, versus 610 events reported in Ottawa) and reported correspondingly higher courtroom operating hours (6,312 hours reported in Brampton, 2,715 hours reported in Ottawa). While the overall number of events heard and courtroom hours have decreased in Ottawa, and either decreased or increased nominally in Hamilton, these indicators have increased substantially in Brampton by over 58%.

In addition to identifying the total number of events and courtroom hours, the relative number of events to new proceedings and the average hours per event can be calculated. The average number of hours per event is lowest in Brampton at 1.9 hours per event, with 4.5 hours per event in Ottawa and 5.0 hours per event in Hamilton. It is interesting to note that while Brampton has far more events per case, it also spends significantly less time per event as compared to the other two courts.

Differences in events heard and courtroom operating hours may be attributed to variations in reporting methods between the three sites, or they may indicate that Brampton cases require a significantly higher number of average appearances per case, although each appearance is on average of a shorter duration than in Ottawa and Hamilton.

SUPERIOR COURT CRIMINAL RECEIVED, DISPOSED AND PENDING 2004

TABLE 27

	BRAMPTON		OTTAWA		HAMILTON	
	2004	% Change 5 Yrs	2004	% Change 5 Yrs	2004	% Change 5 Yrs
New Proceedings	428	51.2%	418	24.4%	196	25.65%
Proceedings Disposed	370	14.9%	392	25.2%	171	-12.3%
Clearance Rate	86%		94%		87%	
Proceedings Pending	303	90.6%	274	-8.4%	154	75%

Despite reporting significantly more criminal events heard and courtroom hours, Brampton disposed of fewer proceedings in 2004 than Ottawa (see Table 27.) Ottawa disposed of 392 matters in 2004 and Brampton disposed of 370. In the five-year period between 2000 and 2004, the number of dispositions increased by 25% in Ottawa and almost 15% in Brampton, but dropped by over 12% in Hamilton.

When the number of cases disposed in a court site is lower than the number of new cases added, the pending caseload will grow. As noted above, in Brampton the number of new cases has increased by over 50% in the past five years, while the number of dispositions has only increased by just under 15%. As a result, the pending inventory of cases has grown substantially by 90% during this time period, from 159 cases pending in 2000 to 303 cases pending at the end of 2004. The Hamilton pending inventory has also increased dramatically during this five-year period, growing by 75% from 88 cases pending in 2000 to 154 cases at the end of 2004. In contrast, the pending inventory in Ottawa has decreased over the same five-year period by 8.4%. The higher disposition rate in Ottawa appears to have helped to clear an existing inventory of pending cases, while the inventory of pending cases in Brampton has been steadily growing throughout the five year period.

Superior Court: Civil and Small Claims Court

SUPERIOR COURT – CIVIL AND SMALL CLAIMS

TABLE 28

2004 Case flow data	BRAMPTON	OTTAWA	HAMILTON
NEW CASES	12691	10138	9052
EVENTS HEARD	11140	10575	6992
COURTROOM HRS.	5906	6380	3081

Given the relatively small volume of Superior Court civil actions and small claims, the data for these two business lines have been aggregated.

Brampton reports an appreciably higher civil/small claims case load than the other two sites with 12,691 new Superior Court civil/ small claims proceedings in 2004. Ottawa has a smaller case flow of 10,138 small claims/ civil proceedings. Hamilton reports the fewest number of civil/ small claims proceedings numbering 9052 new cases in 2004.

Throughputs

Brampton had the most events (11140) of the three courts in the civil/small claims business of the Superior Court, followed closely by Ottawa with 10,575 events while Hamilton had the least number of events (6,992) during the 2004 calendar year.

Interestingly, while Brampton had more cases and events in the Superior Court civil and small claims area, Ottawa had more courtroom hours (6380 versus 5980).

Ontario Court Criminal

ONTARIO COURT – CRIMINAL

TABLE 29

2004 Case load data	BRAMPTON	OTTAWA	HAMILTON
New Cases	37320	38030	20039
Events Heard	335717	306219	126280
Courtroom Hrs	20632	15754	8768
Disposed	38192	35935	21079
Pending	20632	19073	2732

Inputs

Table 30 opposite shows the number of new Ontario Court criminal charges received for each of the three courts studied. Ottawa reported the highest number of new charges, with 38,030 new charges received in 2004. This was followed closely by Brampton with 37,320 new charges received. Hamilton reported roughly half the caseload of the other two sites for this time period, with 20,039 new cases received.

ONTARIO COURT CRIMINAL COURT BY NATURE OF CHARGES

TABLE 30

Charges 2004 Case load data	BRAMPTON		OTTAWA		HAMILTON	
	2004	% Change 5 Yrs.	2004	% Change 5 Yrs.	2004	% Change 5 Yrs.
Total	37,320	15%	38,030	59%	20,029	-6.5%
Criminal Code	27,260	22.9%	31,134	68.3%	15,128	-3.3%
Federally Prosecuted	5,126	20%	2,604	36.7%	1,956	16.6%
Youth	4,934	-18.8%	4,292	22.3%	2,955	-28.1%

The five-year percentage change in new charges received indicates that the growth in charges received is significantly higher in Ottawa than in the other two sites. Ottawa reports a very large 59% increase in charges received over the past 5 years, while Brampton reports a 15% increase, and Hamilton reports a 6.5% decrease. Ottawa has experienced the most dramatic overall percentage increase in new charges over the past five years, in all years but 2004, when Brampton received a higher number of new charges. Ottawa also differs from the other two sites in that it reports an increase in youth charges over the five-year period, whereas both Brampton and Hamilton report notable drops in youth charges.

ONTARIO COURT CRIMINAL CHARGES RECEIVED – CASE TYPES 2004

TABLE 31

Charges 2004 Case flow data	BRAMPTON		OTTAWA		HAMILTON	
	2004	% All Charges	2004	% All Charges	2004	% All Charges
Administration of Justice (Total)	8,021	20.4%	12,584	33.9%	5,310	26.6%
Fail to Comply With Order	4,164	10.6%	7,562	20.4%	1,735	8.7%
Weapons	2,052	5.2%	1,064	2.9%	584	2.9%
Impaired	3,029	7.7%	1,661	4.5%	795	4.0%
Drug Possession	3,161	8.0%	799	2.2%	864	4.3%
Drug Trafficking	1,413	3.6%	891	2.4%	734	3.7%

New cases by type

The case type profile of the charges received for each court location is also revealing. (see Table 31) Brampton reported a significantly higher number of charges received for case types that are typically characterized as more complex and requiring a longer time to disposition. Brampton has the highest number of impaired cases (3,029 cases or 9.5% of the total caseload), of drug possession and drug trafficking cases (3,161 possession charges and 1,413 trafficking charges). Brampton also reported almost twice as many weapons charges as Ottawa during this time period (2,052 in Brampton and 1,064 in Ottawa).

Conversely, Ottawa reported a significantly higher number of charges categorized as “administration of justice charges,” particularly charges of failure to comply with an order, which account for more than 20% of the court’s total charges received. These charge types generally flow from existing original charges, and are typically characterized as less complex and easier to resolve.

While it is beyond the scope of this study to investigate and confirm the reasons for the reported differences in the charge types for each location, it would appear that the different “mix” of cases impacts on the overall performance of each court.

ONTARIO COURT OF JUSTICE CRIMINAL –

NEW CHARGES, EVENTS HEARD, AVERAGE EVENTS TO DISPOSITION AND COURTROOM HOURS

TABLE 32

2004 Case flow data	BRAMPTON		OTTAWA		HAMILTON	
	2004	% Change 5 Yrs.	2004	% Change 5 Yrs.	2004	% Change 5 Yrs.
New Charges Received	37,320	15%	38,030	59%	20,029	-6.5%
Events Heard	335,717	48.4%	300,219	82.7%	165,534	8.4%
Average Events to Disposition	9	41.4%	8.1	12.5%	8	24.5%
Courtroom Hours	24,224	39%	15,754	30.9%	8,768	2.5%

Throughputs

While the Ottawa court had more criminal cases in than Brampton in 2004, it is instructive to note that Brampton heard 12% more events than did Ottawa that year. As expected, Hamilton has significantly less events than the other two courts in The Ontario Court- Criminal.

This pattern is also evident when examining the number of courtroom hours operated by the Ontario Court-Criminal Division in 2004. Again Brampton had more than 9000 more hours for its cases than did Ottawa who had more new cases. Again, Hamilton reported a significantly lower number of courtroom hours in 2004.

This increase in courtroom hours complements the increase in number of events heard; the sum of which impact on number of courtrooms required at these locations rather than design functions or features of the courtrooms themselves.

ONTARIO COURT OF JUSTICE CRIMINAL –
CHARGES RECEIVED, DISPOSED, PENDING AND CLEARANCE RATE

TABLE 33

Case flow data	BRAMPTON		OTTAWA		HAMILTON	
	2004	% Change 5 Yrs.	2004	% Change 5 Yrs.	2004	% Change 5 Yrs.
Charges Received	37,320	15%	38,030	59%	20,029	-6.5%
Charges Disposed	38,192	34.1%	35,935	60.6%	21,079	-8.7%
Charges Pending	20,632	38.2%	19,073	64.7%	7,732	4.5%
Clearance Rate	102%	NA	95%	NA	105%	NA

Table 33 shows the proceedings disposed for each of the three sites, as well as the number of cases pending, the age of these pending cases, and the clearance rate (ratio of disposed charges to charges received).

- As noted in Table 33, Brampton and Ottawa had a substantial increase in disposed and pending cases. In particular Ottawa has had a much higher increase than Brampton.
- For Hamilton, the number of disposed cases has been going down while pending cases have increasing slightly.
- It is instructive to note that Brampton and Ottawa have better clearance rates than Hamilton, and this may be attributed to increased number of disposed cases due to blitz judges in one or both locations.

Family

ONTARIO COURT - FAMILY

TABLE 34

2004 Case flow data	BRAMPTON	OTTAWA	HAMILTON
New Cases	5489	7719	3674
Events Heard	7659	11012	8951
Courtroom Hrs	5411	5825	4749
Disposed	N/A	N/A	N/A
Pending	N/A	N/A	N/A

It is difficult to compare the family practice area between Brampton, Ottawa and Hamilton because each location has a different structure for family cases. Both Ottawa and Hamilton have a unified family court model in place, which means that all family matters are heard in the Superior Court – Family Branch. However, Ottawa family matters are dealt with in the consolidated courthouse, while in Hamilton there is a separate family courthouse that processes these matters.

In Brampton, some family matters are heard in the Ontario Court, while others – including all matters involving divorce and division of property – are heard in the Superior Court. All family matters in Brampton are dealt with in the consolidated courthouse.

In order to facilitate comparison between the three locations, caseload statistics for family matters in both the Ontario Court and Superior Court in Brampton have been combined and then compared to the Family Branch statistics reported for Ottawa and Hamilton.

NEW PROCEEDINGS - FAMILY

TABLE 35

	BRAMPTON		OTTAWA		HAMILTON	
	2004	% Change 5 Yrs.	2004	% Change 5 Yrs.	2004	% Change 5 Yrs.
New Proceedings Domestic	5,298	41.9%	6,198	30.4%	2,649	1.7%
New Proceedings CFSA	191	-49.5%	1,521	3.7%	825	52.8%
Total New Proceedings	5,489	33.5%	7,719	39.2%	3,674	10.5%
New Domestic Per Population	1 per 221		1 per 134		1 per 196	
New Proceedings Per Population	1 per 213		1 per 107		1 per 141	

Table 35 indicates some notable differences in the family caseload between the three courts. Ottawa reported the highest number of new family proceedings, with 7,719 new proceedings in 2004. This is almost 39% more new family cases than reported in Brampton, which had 5,498 new family proceedings in 2004. Hamilton reported 3,674 new family proceedings in 2004.

The rate of growth in the family caseload is comparable between Ottawa and Brampton (30.4% for Ottawa and 33.5% for Brampton), however this rate is much lower for Hamilton, with only a 10.5% rate of growth. It is interesting to note that the growth in the three sites varies significantly between family domestic matters and CFSA proceedings. Both Brampton and Ottawa report a similar high growth in family domestic cases, with a 41.9% increase in Brampton and a 30.4% increase in Ottawa. In contrast, Hamilton reported a nominal increase of only 9.47% for the same time period. The growth rate for CFSA matters shows a much different trend among the three sites. Hamilton reports a startling 52.8% increase in CFSA matters over the five-year period, Ottawa reports a minimal growth rate of 3.7%, and Brampton reports a significant drop of almost 50% in CFSA matters.

EVENTS HEARD AND COURTROOM HOURS – FAMILY

TABLE 36

	BRAMPTON		OTTAWA		HAMILTON	
	2004	% Change 5 Yrs.	2004	% Change 5 Yrs.	2004	% Change 5 Yrs.
Domestic Events Heard	7,423	64.6%	8,314	57.9%	5,738	10.2%
CFSA Events Heard	236	661.3%	2,698	19.5%	3,213	99.5%
Total Events Heard	7,659	57.7%	11,012	46.4%	7,935	25.8%
Total Courtroom Hours	5,411	42.4%	6,066	-2.6%	4,769	-9.8%
Average Hours Per Event	0.70	NA	0.55	NA	0.60	NA

When comparing the number of family events and courtroom hours between the three sites, it is interesting to note that all three sites report a dramatic increase in the number of family events in the past five years, ranging from a 41.9% increase in Hamilton to a 68.77.7% increase in Brampton. Ottawa reported an increase of 46.4% during the five-year period.

While the number of events increased in all three sites over the five-year period, the total courtroom hours used to hear these events dropped in both Ottawa and Hamilton. In contrast, courtroom hours increased dramatically in Brampton for the same time period, rising by 42.4%.

Overall, it appears that the Ottawa courthouse experiences the most pressures in processing its family cases, both in terms of the overall number of matters coming into the court, and the number of events and courtroom hours required to process these events. The source of this pressure appears to be primarily from domestic cases rather than CFSA. It should be noted, however, that Brampton has reported the highest increase in domestic matters between the three sites, although the CFSA caseload is surprisingly low.

APPENDIX E: KEY ISSUES IN CAPITAL PLANNING PROCESSES

Phase 1: Identification of potential facility projects

Key Issues

- There is insufficient data flow from ORC to FMB on matters that would affect asset management and facilities planning.
- Data provision concerning leased accommodation is not timely.
- There are varying levels of participation by non-judicial court users in this phase.
- There is a lot of variance at the regional level with respect to committee structures that may deal with capital planning and facility issues.
- There is a lack of understanding by many courthouse users regarding the appropriate forum or mechanism to identify the need for an accommodation project.
- Facilities matters are given relatively low priority at the cross-Divisional level.
- Often, requests are not discussed among the Divisions prior to being forwarded to the FMB for inclusion in the capital infrastructure plan.
- Current approaches to cost allocation center on facilities – specific costs (absorbed by ORC) versus program-specific costs (borne by CSD).

Phase 2: Business case preparation

Key Issues

- Top-down delineation of system issues that might drive business case development is insufficient.
- There is little costing expertise at the regional level.

Phase 3 Key Issues

- Lack of regional infrastructure plans.
- No long-term plans for each site exist.
- There is no tight corporate policy framework to ensure key corporate/provincial needs are met.
- There is no appropriate policy forum to discuss inter-ministerial policy and capital plans that impact on courthouses.
- Courts that have recently acquired major capital resources feel disadvantaged relative to the renewal capital process. The perception is held that their needs have already been met.
- There is insufficient integration of data among the Ontario Realty Corporation (ORC), the Ministry of Public Infrastructure Renewal (PIR), ProFac and CSD and among the Divisions within MAG.
- It is unclear whether the current system truly addresses the most pressing needs across the province.
- Many users perceive a lack of clarity regarding the criteria used to set out the items on the Divisional list in order of priority and also a lack of transparency to the field.
- There is insufficient consideration of other jurisdictions' infrastructure plans, demand and input analysis upon the justice system.
- There are no long-term plans for each building.
- There appears to be a lack of flexibility in responding to new pressures affecting the facilities renewal envelope.

Key Issues:

- Integration of priorities is still in its infancy in terms of process development and commitment.
- Lack of transparency to field operations – especially the judiciary – regarding how and why decisions are made regarding which projects to include in the infrastructure plan and their order of priority.
- Perception that Facilities Management Branch is more focused on meeting corporate/financial obligations than representing the operational interests of its MAG clients.
- Facilities Management Branch provides divisions with very tight time frames to review and provide input to planning notes.
- The judiciary is not given sufficient time to receive and provide sign-off.

Phase 5: Review and approval of MAG Infrastructure Plan

Key Issues

- Lack of transparency regarding how decisions are made and the rationale behind them.
- Concern that the courts' operating requirements are over-shadowed by corporate initiatives and priorities.
- Lack of coordinated communication strategy to advise court users – particularly the judiciary – of approvals made.

Phase 6: Determination of funding source and management

Key Issues

- Lack of transparency regarding decisions to change allocation for new court construction initiatives.

Phase 7: Functional design for court construction and facilities renewal

Key Issues

- No vision directing functional planning
- No overarching vision or policy backdrop to drive the work of the users' groups
- There is no policy or set of principles governing an appropriate occupancy model.
- Planning processes are lengthy and participants do not feel they are on a level playing field.
- There is a strongly held-perception by users that the decision-making associated with functional design planning is not transparent.
- Users' Committees are rarely given full disclosure about the quantities of money allocated to the project.
- No knowledge transfer occurs between large projects
- There are no Terms of Reference for Users' Committees that are developed with clear accountabilities, roles and responsibilities, and an articulated mandate.
- Standards are out of date and their applicability is unclear.

Phase 5: Implementation

Key Issues

- There appear to be patterns of persistent under-spending in renewal projects.
- The implementation process is burdensome with little or no emphasis on vision or direction re: the business of courthouses.
- There is a perceived lack of transparency or feedback.
- There are unclear and unresolved issues around roles, responsibilities and accountabilities between and among all the players.
- The client Division perceives that the Facilities Management Branch is neither proactive nor timely in exercising its project oversight function. CSD, with little if no exception, manages to complete all projects within its delegated value of below \$50,000.
- There are shifting priorities that cannot be dealt with easily in light of increasing financial and process scrutiny by the multiple central agencies dealing with realty, facility and financing matters.
- The business experts may not have sufficient expertise to provide adequate technical input, both in terms of identifying options to resolve a problem and scoping detailed requirements, for the purposes of the Facilities Management Branch.
- The field, though recognizing recent service delivery from FMB and ORC, perceives that certain information barriers exist which place limits on the Division's ability to implement capital projects in courthouses.
- The Court Services Division is in the unenviable position of not being responsible for the final disposition of priorities, nor the financial control thereof, but accountable for relationship management with the judiciary and justice partner stakeholders.
- Should a project run into difficulties during the implementation phase, the protocols of role differentiation prevent the CSD from speaking directly with relevant parties in the Ontario Realty Corporation.

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